

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT

JAN 23 2008
U.S. DISTRICT COURT
NORTHERN DISTRICT
OF CALIFORNIA

SIEU PHONG NGO,

Petitioner-Appellant,

v.

BEN CURRY, Warden, CTF, and
DENNIS KENNEALLY, Executive Director
of the Board of Parole Hearings (BPH),

Respondent-Appellee.

Case No.

(Cal. Supreme Ct.
No. S148684)

Super Ct. No. M10984

CV 08

0620

FROM THE JUDGMENT OF THE SUPERIOR COURT OF ORANGE COUNTY, THE
HONORABLE KAZUHARU MAKINO, JUDGE PRESIDING

EXHIBITS IN SUPPORT OF
PETITION FOR WRIT OF HABEAS CORPUS

Sieu P. Ngo
Correctional Training Facility
Central-Facility
J-07024
P.O. Box 689, B-319U
Soledad, CA 93960-0689

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EXHIBIT A

SUBSEQUENT PAROLE CONSIDERATION HEARING

STATE OF CALIFORNIA

BOARD OF PAROLE HEARINGS

In the matter of the Life)
Term Parole Consideration)
Hearing of:)

CDC Number J-07024

SIEU NGO)
_____))

**INMATE
COPY**

CORRECTIONAL TRAINING FACILITY

SOLEDAD, CALIFORNIA

FEBRUARY 8, 2006

9:58 A.M.

PANEL PRESENT:

Ms. Sandra Bryson, Presiding Commissioner
Mr. Doug Filangeri, Deputy Commissioner

OTHERS PRESENT:

Mr. Sieu Ngo, Inmate
Ms. Tara Rutledge, Attorney for Inmate
Mr. Tom Crofoot, Deputy District Attorney
Correctional Officers Unidentified

CORRECTIONS TO THE DECISION HAVE BEEN MADE

_____	No	See Review of Hearing
_____	Yes	Transcript Memorandum

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1 P R O C E E D I N G S

2 DEPUTY COMMISSIONER FILANGERI: We're on
3 record.

4 PRESIDING COMMISSIONER BRYSON: This is a
5 Subsequent Parole Consideration Hearing for Sieu
6 Ngo CDC number J-07024. Today's date is
7 February 8th, 2006 and the time is 9:58 A.M. We
8 are located at Correction Training Facility in
9 Soledad. The inmate was received on February
10 1st, 1994 committed from Orange County. The
11 life term began February 1st, 1994. The
12 inmate's minimum eligible parole date is May
13 24th, 2003. The controlling offense for which
14 the inmate is committed is set forth in case
15 number C199109 charging in count one a violation
16 of Penal Code 187 murder second enhanced with a
17 weapon Penal Code 1222A sub one, armed with a
18 firearm to wit a 22 caliber pistol for which the
19 inmate received a term of 15 years to life plus
20 one year. This hearing is being recorded. For
21 the purpose of voice identification each of us
22 will state our first and last name, spelling the
23 last name. When it is your turn Sir, after you
24 spell your last name please state your CDC
25 number. I will start and then go to my left,
26 Sandra Bryson B-R-Y-S-O-N Commissioner Board of
27 Parole Hearings.

1 **DEPUTY COMMISSIONER FILANGERI:** Deputy
2 Commissioner Doug Filangeri F-I-L-A-N-G-E-R-I.

3 **DEPUTY DISTRICT ATTORNEY CROFOOT:** Tom
4 Crofoot C-R-O-F-O-O-T Orange County District
5 Attorney's Office.

6 **ATTORNEY RUTLEDGE:** Tara E. Rutledge R-U-
7 T-L-E-D-G-E Attorney for Mr. Ngo.

8 **INMATE NGO:** Inmate Ngo N-G-O first name
9 Sieu S-I-E-U middle name Phong P-H-O-N-G CDC
10 number J-07024.

11 **PRESIDING COMMISSIONER BRYSON:** I note
12 for the record that we have two correctional
13 peace officers in the room who are here for
14 security purposes. Commissioner Filangeri is
15 there any confidential material in the file and
16 if so will it be used today?

17 **DEPUTY COMMISSIONER FILANGERI:** There is
18 none we will be using today.

19 **PRESIDING COMMISSIONER BRYSON:** All right
20 I passed the hearing checklist marked exhibit
21 one to your counsel and I believe, do you have
22 that District Attorney?

23 **DEPUTY DISTRICT ATTORNEY CROFOOT:** I have
24 it as well.

25 **PRESIDING COMMISSIONER BRYSON:** All right
26 and confirming that the District Attorney has
27 the documentation.

1 **DEPUTY DISTRICT ATTORNEY CROFOOT:** I have
2 thank you.

3 **PRESIDING COMMISSIONER BRYSON:** And
4 counsel you have the documentation.

5 **ATTORNEY RUTLEDGE:** Yes.

6 **PRESIDING COMMISSIONER BRYSON:** Thank
7 you. Are there any additional documents to be
8 submitted counsel?

9 **ATTORNEY RUTLEDGE:** No, just that the
10 packet that we provided dated February the 8th I
11 believe --

12 **PRESIDING COMMISSIONER BRYSON:** We do
13 have this.

14 **ATTORNEY RUTLEDGE:** Okay other than that
15 we have nothing to submit.

16 **DEPUTY DISTRICT ATTORNEY CROFOOT:** I have
17 not seen that, can you just describe it for me?

18 **ATTORNEY RUTLEDGE:** Sure, it's Mr. Ngo
19 has prepared sort of a, it's entitled Memorandum
20 of Evidence in Law and Support of Parole
21 Suitability where he tells the board, well, it
22 includes parole plans, what his place of
23 residence and employment, psych evaluation
24 reports, life prisoner evaluation reports,
25 includes his chronos and certificates which are
26 all in the C File, and support letters. Last I
27 checked everything in here is in the C File

6

1 except the first two sections. Is that correct
2 or not?

3 **INMATE NGO:** I don't know.

4 **ATTORNEY RUTLEDGE:** Everything else
5 beginning with the psych eval should -

6 **INMATE NGO:** Should be all in there.

7 **ATTORNEY RUTLEDGE:** Is all in the C File.
8 So if you want to review this I'll let you.

9 **DEPUTY DISTRICT ATTORNEY CROFOOT:** That's
10 fine thank you.

11 **PRESIDING COMMISSIONER BRYSON:** And we
12 will be going over those first two sections
13 basically here in the hearing. All right Sir,
14 today you and your attorney signed a document
15 marked exhibit two regarding ADA Accommodation
16 Hearing Procedures and Inmate's Rights. Counsel
17 do you have any comments or concerns regarding
18 the ADA Rights or the inmate's ability to
19 participate in the hearing?

20 **ATTORNEY RUTLEDGE:** No.

21 **PRESIDING COMMISSIONER BRYSON:** Are there
22 any preliminary objections?

23 **ATTORNEY RUTLEDGE:** No, not at this time.

24 **PRESIDING COMMISSIONER BRYSON:** All
25 right, will the inmate be speaking with the
26 panel?

27 **ATTORNEY RUTLEDGE:** According to what he

1 wrote there he will be speaking to the panel in
2 all issues other than the commitment offense
3 which he spoke to the board I believe at his
4 first hearing and he notes in his Memorandum,
5 let me just quote from there, "further more I
6 have fully and freely, I confess and accept the
7 facts of my personal culpability and
8 responsibility for the life term offense." So
9 that would conclude his comments on the offense.
10 Other than that though he will discuss other
11 issues with the board.

12 **PRESIDING COMMISSIONER BRYSON:** All right
13 then Sir if you are going to address the panel
14 we will swear you in. So would you raise your
15 right hand please, do you solemnly swear or
16 affirm that the testimony you give at this
17 hearing will be the truth, the whole truth and
18 nothing but the truth?

19 **INMATE NGO:** Yes I swear.

20 **PRESIDING COMMISSIONER BRYSON:** All right
21 I will read the facts of the crime into the
22 record, information obtained from the probation
23 officer's report pages three and four. On
24 September 18th, 1992 Angel Gonzales was beaten
25 and shot to death near Fullerton High School as
26 he was walking home after school. An
27 investigation revealed that earlier in the day

1 the victim, a member of the "Fullerton's Toker's
2 Town" a Latin gang and member of "Fullerton's
3 Boyz" B-O-Y-Z an Asian gang were at a McDonald's
4 restaurant near the high school. The victim and
5 No, that's N-O Muhamed M-U-H-A-M-E-D, had a
6 confrontation with each claiming there each
7 respective gang affiliations. After this non
8 physical altercation the group of Asians which
9 at the time included Sieu Phong Ngo obtained a
10 firearm. Ngo, N-G-O, and the Asian gang members
11 returned to the school where they waited for
12 Gonzales. As he walked home he was attacked and
13 beaten. During the physical altercation the
14 victim was shot one time in the back by Usumang
15 U-S-U-M-A-N-G last M-U-H-A-M-E-D, the group of
16 five Asian gang members including Ngo N-G-O fled
17 the area after the shooting. Angel Gonzales
18 died at the scene as a result of the gun shot
19 wound. Ngo N-G-O, Jimmy Dao D-A-O and Asat Cham
20 A-S-A-T-C-H-A-M fled to the state of Washington.
21 They were subsequently apprehended there and the
22 murder weapon, a stolen 22 caliber hand gun was
23 recovered in the vehicle. All right Sir, as to
24 your pre-conviction record you have none as a
25 juvenile. We have as to your adult arrest
26 history and conviction's, we have that on March
27 30th, 1992 you were arrested by the San Gabriel

1 Police Department for possession of a controlled
2 substance, three pieces of rock cocaine. On May
3 7th, 1992 that was diverted pursuant to Section
4 1000 of the Penal Code. And then on September
5 22nd, 1992 you were arrested by the Olympia
6 Sherriff's Office for possession of stolen
7 property. This case was subsequently dismissed
8 and that of course ensued with the instant
9 crime. And that comports with your record here
10 so they are the same. Okay, all right, as to
11 your personal history, it's cleared also by the
12 way that you do have a strong stable family and
13 good social support. Just reviewing it and then
14 your welcome to add to it if you would like.
15 You were born in Vietnam on May 18th 1973.

16 **INMATE NGO:** Correct.

17 **PRESIDING COMMISSIONER BRYSON:** And you
18 resided in the United States since 1979 so that
19 means that you basically came here when you were
20 six years old. Is that right?

21 **INMATE NGO:** Correct.

22 **PRESIDING COMMISSIONER BRYSON:** In 1991
23 you graduated from Fullerton High School and
24 subsequently attended Fullerton Community
25 College and Pasadena City College. As to your
26 high school courses and then your subsequent
27 college courses, where were you headed

1 professionally in both high school and college
2 as you went through?

3 **INMATE NGO:** Well I was trying major in
4 small business and you know hopefully start my
5 own business one day.

6 **PRESIDING COMMISSIONER BRYSON:** Okay, we
7 have here that you completed ten units and your
8 major was business. Were those semester units,
9 is that what that's referencing?

10 **INMATE NGO:** Yeah, semester.

11 **PRESIDING COMMISSIONER BRYSON:** All
12 right, you were employed as a telemarketer and
13 worked odd jobs. So you were working while you
14 were in college?

15 **INMATE NGO:** Right.

16 **PRESIDING COMMISSIONER BRYSON:** You were
17 employed at your family's liquor store and
18 resided with your parents. We note that you had
19 problems with substance abuse including, it says
20 controlled substances or alcohol. Would you
21 explain that a little more. First of all your
22 record is very A characteristic of your getting
23 involved in this in the first place so that's
24 where I'm trying to gain some understanding.
25 You were in a gang, or a want to be gang at the
26 time?

27 **INMATE NGO:** Correct.

11

1 **PRESIDING COMMISSIONER BRYSON:** And what
2 go you motivated into the gang, I can't imagine
3 actually from your record?

4 **INMATE NGO:** Well you know as kids you
5 always you know feel like you want to belong to
6 somebody or be a part of something you know.

7 **PRESIDING COMMISSIONER BRYSON:** Right.

8 **INMATE NGO:** I mean at that time you
9 know, that's how I felt when I was a kid you
10 know, wanted to belong to something you know.
11 Never thinking something like this leads to you
12 know what happened in this instant case but you
13 know that's my mistake you know choosing the
14 wrong friends you know, not knowing any better
15 but now your know I realize what I did was you
16 know by choosing wrong friends you know can cost
17 you your life you know, ruin your life.

18 **PRESIDING COMMISSIONER BRYSON:** Were your
19 parents aware of your involvement with gangs and
20 or drugs?

21 **INMATE NGO:** At that time I don't know,
22 no they weren't aware of it you know because you
23 know I guess you know you can say I hide from
24 them or what not because like was said earlier
25 we just more like want to be gang member. We
26 just like, there was five of us we like friends
27 you know we just hang around you know do what

1 kids do, you know, play arcade and what not you
2 know, that's about it.

3 **PRESIDING COMMISSIONER BRYSON:** Were your
4 parents both employed?

5 **INMATE NGO:** Yes they were, we own -- at
6 that time we had a family business, a liquor
7 store.

8 **PRESIDING COMMISSIONER BRYSON:** Right.

9 **INMATE NGO:** Before that my dad you know
10 he was into making signs and stuff before we
11 purchased a liquor store. From that point on we
12 just run a liquor store, a family liquor store
13 in Anaheim.

14 **PRESIDING COMMISSIONER BRYSON:** You have
15 brothers and sisters?

16 **INMATE NGO:** I have one older brother,
17 two older sisters and one younger brother, and
18 one younger sister. There are all doing well, I
19 mean, my brothers getting married soon and they
20 all graduate, most of them graduated from
21 college and my little sister, I don't know,
22 right now I really don't know where she is
23 because of what happened to me and stuff like
24 that you know, my dad and he was passing away.
25 I don't know what happened, she came visit me
26 one time and she just moved out and I have never
27 heard from her again.

1 **PRESIDING COMMISSIONER BRYSON:** I see.

2 **INMATE NGO:** That's the only person,
3 thing I know about what -- I don't even know
4 where she is right now at this point, my little
5 sister so I would like to look for her when I
6 get out though if I'm given a second chance.

7 **PRESIDING COMMISSIONER BRYSON:** Okay, now
8 is your mom still living?

9 **INMATE NGO:** Yes my mom is still living.

10 **PRESIDING COMMISSIONER BRYSON:** And how
11 is she doing?

12 **INMATE NGO:** She's doing well.

13 **PRESIDING COMMISSIONER BRYSON:** Is she
14 working or is she retired?

15 **INMATE NGO:** Right now she's going to
16 school right now. She's trying to learn English
17 she said you know so it's a good thing to keep
18 her occupied you know because since my dad
19 passed away and she really you know had no one
20 to you know talk to so you know friends wise and
21 what not so beside family members so she's going
22 to school from what I understand.

23 **PRESIDING COMMISSIONER BRYSON:** All
24 right, let's go to post-conviction factors and
25 Commissioner -- do you have any questions first
26 of all relevant to the personal history?

27 **DEPUTY COMMISSIONER FILANGERI:** Yeah

1 thanks I do. Are you suggesting that your
2 sister's disappearance has something to do with
3 your imprisonment?

4 **INMATE NGO:** I think she was maybe
5 traumatized and I know she feel you know she's,
6 I don't know I can't personally say how she
7 feels but I think it might have a little affect
8 on her because you know she just moved away you
9 know so. My family is still looking for her so.

10 **PRESIDING COMMISSIONER BRYSON:** How old
11 is she now?

12 **INMATE NGO:** She should be about 28 right
13 now, 28, 29.

14 **DEPUTY COMMISSIONER FILANGERI:** So what
15 makes you think she might become traumatized?

16 **INMATE NGO:** At the time my dad was sick
17 and he was dying of cancer and me being in
18 prison I guess it just, she didn't want to be
19 around at that time I guess. I don't know what
20 the reason, I would like to know but I can't
21 answer that at this point right now.

22 **DEPUTY COMMISSIONER FILANGERI:** Well what
23 would stop me from thinking that you're just
24 trying to exploit the situation to garner some
25 sympathy from the panel members?

26 **INMATE NGO:** I'm not, not at all.

27 **DEPUTY COMMISSIONER FILANGERI:** That's

1 all the questions I have.

2 **PRESIDING COMMISSIONER BRYSON:** All
3 right, we'll go to post conviction factors with
4 Commissioner Filangeri.

5 **DEPUTY COMMISSIONER FILANGERI:** Okay
6 thanks. The purpose of this part of the hearing
7 is to detail your prison behavior since you last
8 appeared before the board. I think that was
9 August 5th, 2004 where you were denied for one.
10 That was your first Subsequent Parole
11 Consideration Hearing.

12 **INMATE NGO:** I was denied two years for
13 my first one and my Subsequent was one year.

14 **DEPUTY COMMISSIONER FILANGERI:** Right,
15 that was 2004 your first Subsequent Parole
16 Consideration Hearing resulted in a one year
17 denial.

18 **INMATE NGO:** Right, correct Sir.

19 **DEPUTY COMMISSIONER FILANGERI:** The first
20 document that I want to refer to is the
21 Correctional Counselor's Report provided by F.I.
22 DeGuzman D-E-G-U-Z-M-A-N its dated 6/16/05.
23 Under post-conviction factors the counselor
24 writes that you've remained at CTF in the
25 general population, medium A with a mandatory
26 minimum placement score of 19 although your
27 actual classification score, but for your being

1 a lifer without a date would have been zero.
2 The writer refers us to the post conviction
3 progress report which says that you're doing
4 independent studies through Coast Line Community
5 College. I saw six items in the C File from
6 Coast Line College about training material,
7 tests, CDs and stuff like that. Each one of
8 those items correspond to a particular course?

9 **INMATE NGO:** Yes, like some course
10 require you know, it's enclosed with the books
11 along which explained the program itself but
12 since we can't, we don't allow the use of
13 computers so it's pretty much pointless so I had
14 to return it you know.

15 **DEPUTY COMMISSIONER FILANGERI:** So if
16 they come on CD's you can't do the class?

17 **INMATE NGO:** No, the CD just part of the
18 curriculum but it's just basically what there
19 teachers like explaining what's in the class
20 itself.

21 **DEPUTY COMMISSIONER FILANGERI:** So you
22 can still do the class with the books and still
23 pass the tests?

24 **INMATE NGO:** Yes.

25 **DEPUTY COMMISSIONER FILANGERI:** You have
26 enough to do to pass the tests?

27 **INMATE NGO:** Yes, you have a syllabus, it

1 has all the curriculum in there.

2 **DEPUTY COMMISSIONER FILANGERI:** Okay, I
3 saw that first item was I think dated around
4 2005, have you actually completed any of the
5 course work yet?

6 **INMATE NGO:** For the Coast Line, yes.

7 **DEPUTY COMMISSIONER FILANGERI:** Do you
8 have certificates?

9 **INMATE NGO:** There's no certificate but I
10 have grades which unfortunately I don't have it
11 hear but I have listed all the courses I've
12 completed. If you look -

13 **DEPUTY COMMISSIONER FILANGERI:** What
14 section of that is that in the packet?

15 **INMATE NGO:** Page seven of my Memorandum.

16 **DEPUTY COMMISSIONER FILANGERI:** Okay
17 current academic and self help programs and down
18 here, here it is Coast Line College.

19 **INMATE NGO:** Right.

20 **DEPUTY COMMISSIONER FILANGERI:** So you
21 have completed biology 100.

22 **INMATE NGO:** Correct.

23 **DEPUTY COMMISSIONER FILANGERI:** Business
24 110.

25 **INMATE NGO:** 120.

26 **DEPUTY COMMISSIONER FILANGERI:** I see,
27 this one says 110.

1 INMATE NGO: Oh typo.

2 DEPUTY COMMISSIONER FILANGERI: Okay,

3 counseling 105.

4 INMATE NGO: Correct.

5 DEPUTY COMMISSIONER FILANGERI:

6 Psychology 100.

7 INMATE NGO: Correct.

8 DEPUTY COMMISSIONER FILANGERI: Sociology

9 100.

10 INMATE NGO: Correct.

11 DEPUTY COMMISSIONER FILANGERI: Spanish

12 180.

13 INMATE NGO: Correct.

14 DEPUTY COMMISSIONER FILANGERI: And your

15 currently enrolled in Health 100?

16 INMATE NGO: No that's the old from a

17 previous board.

18 ATTORNEY RUTLEDGE: Here maybe this one

19 will I think, in fact this does not have the

20 typo. I didn't realize they weren't the same so

21 go right ahead.

22 DEPUTY COMMISSIONER FILANGERI: I see

23 okay. Okay this one says Business 120. Spanish

24 180, Health 100 you've completed that?

25 INMATE NGO: Yes.

26 DEPUTY COMMISSIONER FILANGERI:

27 Philosophy.

1 INMATE NGO: Yes.

2 DEPUTY COMMISSIONER FILANGERI:

3 Communications 100.

4 INMATE NGO: Yes.

5 DEPUTY COMMISSIONER FILANGERI: Geology

6 100.

7 INMATE NGO: Yes.

8 DEPUTY COMMISSIONER FILANGERI: History

9 175.

10 INMATE NGO: Yes.

11 DEPUTY COMMISSIONER FILANGERI: Astronomy

12 100.

13 INMATE NGO: Yes.

14 DEPUTY COMMISSIONER FILANGERI: Marine

15 Science 100.

16 INMATE NGO: Correct.

17 DEPUTY COMMISSIONER FILANGERI: And your

18 currently enrolled in Humanities and Political

19 Science.

20 INMATE NGO: Correct.

21 DEPUTY COMMISSIONER FILANGERI: Okay,

22 let's see, 13 classes figuring there what, about

23 worth three units a piece?

24 INMATE NGO: Three units except for

25 Spanish its five units.

26 DEPUTY COMMISSIONER FILANGERI: So you

27 are more than halfway towards your AA degree?

1 **INMATE NGO:** I have 41 unit.

2 **DEPUTY COMMISSIONER FILANGERI:** How many?

3 **INMATE NGO:** 41 units currently.

4 **DEPUTY COMMISSIONER FILANGERI:** And you
5 need 60?

6 **INMATE NGO:** Sixty.

7 **DEPUTY COMMISSIONER FILANGERI:** Great,
8 are you taking all the necessary core classes
9 that I'm assuming there are some classes that
10 have to be taken?

11 **INMATE NGO:** Yes, I still have to take
12 English which is required and math so Political
13 Science is required so I'm taking it right now.
14 After I take those two classes I will be taking
15 Small Business and Business Management.

16 **DEPUTY COMMISSIONER FILANGERI:** Great.

17 **INMATE NGO:** To upgrade.

18 **DEPUTY COMMISSIONER FILANGERI:** Great, it
19 seems to me I noticed that a test of Adult Basic
20 Education, it was 12.9.

21 **INMATE NGO:** Correct.

22 **DEPUTY COMMISSIONER FILANGERI:** All right
23 and I also saw a certificate of High School
24 Graduation from Fullerton in 1992.

25 **INMATE NGO:** Correct.

26 **DEPUTY COMMISSIONER FILANGERI:** Okay, all
27 right. Let's go back to the Counselor's post-

1 conviction progress report. It says that you
2 are assigned as the culinary store keeper office
3 aid with satisfactory grades. You've got
4 certificates of completion in automotive
5 refinishing in 1997 and upholstery in 1997. Now
6 that was when you were at LA County.

7 **INMATE NGO:** Lancaster.

8 **DEPUTY COMMISSIONER FILANGERI:** Lancaster
9 that's it, Lancaster. You haven't had any
10 vocational upgrading since you've been at CTF?

11 **INMATE NGO:** Well the only one that they
12 have right now it was drafting and at that time
13 was computer data.

14 **DEPUTY COMMISSIONER FILANGERI:** It says
15 that your on the computer processing or the data
16 processing waiting list but I heard that people
17 been on that list forever.

18 **INMATE NGO:** Forever, it's so I have a
19 upgrade on forklift things which is trade in
20 itself, a forklift operator.

21 **DEPUTY COMMISSIONER FILANGERI:** That's
22 right, you didn't mention it. I did see that.

23 **PRESIDING COMMISSIONER BRYSON:** It's in
24 here.

25 **DEPUTY COMMISSIONER FILANGERI:** 2002, I
26 saw that.

27 **INMATE NGO:** I am certified and I have a

1 new updated license I just been renewed.

2 **DEPUTY COMMISSIONER FILANGERI:** Do you
3 use that forklift operator's license in this --

4 **INMATE NGO:** Facility yes to move.

5 **DEPUTY COMMISSIONER FILANGERI:** Culinary
6 store keeper office aid?

7 **INMATE NGO:** Right.

8 **DEPUTY COMMISSIONER FILANGERI:** Good.
9 Are there any more upgrades you can do on that?

10 **INMATE NGO:** Besides fork lifting?

11 **DEPUTY COMMISSIONER FILANGERI:** Something
12 about jacks you had some sort of certification.

13 **INMATE NGO:** Those are hand jacks, it's
14 just like manual by my self. It's pretty easy
15 to operate, they electric ones to though.

16 **DEPUTY COMMISSIONER FILANGERI:** Okay in
17 terms of your education I also saw some peer
18 education back in 1999 for sexual transmitted
19 disease, HIV, AIDS, TB and hepatitis.

20 **INMATE NGO:** Correct.

21 **DEPUTY COMMISSIONER FILANGERI:** I saw a
22 document for anger management in 2005 and some
23 2000 documents for Salesmanship and Key to
24 Fatherhood, something through the Muslim Chapel
25 was it?

26 **INMATE NGO:** Correct.

27 **DEPUTY COMMISSIONER FILANGERI:** Okay

1 let's go to the psychological evaluation. My
2 file indicates that there was a new
3 psychological evaluation ordered 1/20/06 which I
4 would guess is the reason why I'm having to use
5 the last one from 2002. I realize it's old but
6 it's not particularly negative so I wouldn't be
7 surprised if we did have a new one it wouldn't
8 be similar. And you should also know that the
9 board has a new directive that if your not
10 involved in the -- if your not Triple CMS or EOP
11 then we are not going to be asking for updated
12 psych reports.

13 **INMATE NGO:** No I'm not.

14 **DEPUTY COMMISSIONER FILANGERI:** So this
15 one is dated 1/31/02 and it's signed by, no it's
16 not signed by C. Saindon S-A-I-N-D-O-N PHD,
17 staff psychologist although he appears to be the
18 writer. It is signed by Bill Zika Z-I-K-A PHD
19 Senior Supervising Staff Psychologist. Under
20 clinical assessment on page four, current
21 diagnostic impressions on axis I no contributory
22 clinical disorder, axis II deferred, global
23 assessment of functioning score is 90. The
24 examiner writes that there's no evidence that
25 inmate Ngo currently suffers from any
26 psychiatric illness. Under review of the life
27 crime the inmate stated that he agreed with the

1 version of the crime given in the Central File
2 and the verdict from sentencing, however he
3 stated that no one intended to kill the victim.
4 Under assessment of dangerousness item 14 the
5 examiner writes that cocaine use and gang
6 affiliation resulted in the current offense.
7 Under item C, the most significant risk factors
8 of this inmate as a precursor to violence or
9 return to criminal behavior would be his re-
10 involvement with others having a criminal
11 history and or gang members. If use of alcohol
12 and or drugs in isolation from his family
13 members. Clinical observations, the inmate is
14 competent and responsible for his behavior.
15 Inmate does not have a mental disorder which
16 would resuscitate treatment either during his
17 incarceration period or following parole. In
18 back of the short file there is several items
19 I'd like to make note of. Oh yeah, here's the
20 tape test score, that was back in 1997 for 12.9
21 and there's a list of disciplinaries, there are
22 no 115's, two 128's minor in 1997 and 2000 for
23 failure to respond to a medical duckett, and a
24 covered window respectively. Here is the
25 certificate to anger management that I already
26 said, talked about. And there's a series of
27 chronos, one 11/06 for NA attendance, 12/8/05

1 completion of the Phobic Anger Management Class,
2 10/28/05 a laudatory chrono signed by
3 Correctional Supervising Cook W. Rogers R-O-G-E-
4 R-S, says he finds you to be a reliable worker
5 who needs little or no supervision working in
6 the culinary warehouse store keeper. Says that
7 you are responsible for many tasks that require
8 attention to detail and accuracy and the writer
9 believes you would be an asset to any employer
10 upon release given your range of skills
11 including certification for the operation of
12 forklifts and power jacks. 6/13/05 is a chrono
13 for NA, 3/12/05 Narcotics Anonymous, 1/5/05
14 Correctional Supervising Cook W. Rogers writes
15 again that your , commending your outstanding
16 performance of your assignment, your still in
17 the culinary warehouse store keeper and Rogers
18 believes you can be relied upon to take the
19 initiative to ensure the varies duties your
20 responsible for are completed and you would be
21 an asset to any employer upon release given your
22 range of skills. 10/22/04 Narcotics Anonymous,
23 9/27/04 NA. Is there anything else that you
24 want to call the panel's attention to regarding
25 behavior during the last, since August of 2004?

26 **INMATE NGO:** That should be it for my
27 incarceration for what I been doing but as you

1 can I see I have a lot of support letter's here.

2 **DEPUTY COMMISSIONER FILANGERI:** That's in
3 another segment of the hearing.

4 **INMATE NGO:** All right.

5 **DEPUTY COMMISSIONER FILANGERI:** Right now
6 I am just focusing on your behavior in the
7 institution and I don't mean to cut you off.

8 **INMATE NGO:** Oh no problem.

9 **DEPUTY COMMISSIONER FILANGERI:** If there
10 is something else that you have done that you
11 want to call our attention to now would be the
12 time.

13 **INMATE NGO:** No that would be all.

14 **DEPUTY COMMISSIONER FILANGERI:** Okay.

15 **INMATE NGO:** Thank you.

16 **DEPUTY COMMISSIONER FILANGERI:** Thank
17 you.

18 **PRESIDING COMMISSIONER BRYSON:** All
19 right, we'll talk about your parole plans and
20 support which I have to say is extensive and --

21 **DEPUTY COMMISSIONER FILANGERI:** I'm
22 sorry, I forgot to mention the certificate that
23 Mr. Ngo handed us that 2005 certificate of
24 appreciation for your generous donation to the
25 5th Annual Correctional Training Facilities
26 Teddy Bear Drive. I'm sorry.

27 **PRESIDING COMMISSIONER BRYSON:** Thank

1 you. It's very well thought out and well
2 organized, that's very helpful to the board.

3 **INMATE NGO:** Thank you.

4 **PRESIDING COMMISSIONER BRYSON:** Let's go
5 to your parole plans and I'd like to read these,
6 these seem very current, I assume they are.

7 **INMATE NGO:** Yes they are.

8 **PRESIDING COMMISSIONER BRYSON:** We will
9 go with this first. You've organized it in a
10 liable way. First you have articulated what you
11 plan to do in the first year of adjustment and
12 then for the next two to five years. So for the
13 first one to twelve months you have written that
14 you will first report to work at "First China
15 Kitchen" or "Hot Wok" which will meet your
16 immediate needs. So you would be working as a
17 cook there?

18 **INMATE NGO:** Waiter, cashier, it don't
19 matter.

20 **PRESIDING COMMISSIONER BRYSON:** Okay
21 second you would continue working toward
22 completing your Associates Arts Degree in
23 Liberal Arts at Coast Line Community College.

24 **INMATE NGO:** Correct.

25 **PRESIDING COMMISSIONER BRYSON:** Third you
26 would reinforce your relationship with your
27 family members, academically and technically.

1 Fifth or fourth you would continue to attend and
2 participate in the local Narcotics Anonymous
3 Meetings and then you would also purchase an
4 automobile for transportation. All right now,
5 this stuff tails into where you would plan to
6 reside during this time which would be with your
7 mother, Phuong Hung Ngo at Monterey Park. Is
8 there anyone else living at home right now with
9 her?

10 **INMATE NGO:** My little brother, he's
11 taking care of her.

12 **PRESIDING COMMISSIONER BRYSON:** And how
13 is he doing, what's he do?

14 **INMATE NGO:** He works at Kaiser
15 Permanente.

16 **PRESIDING COMMISSIONER BRYSON:** Oh he
17 does.

18 **INMATE NGO:** So, he's taking care of her.

19 **PRESIDING COMMISSIONER BRYSON:** And does
20 he have a record of any sort?

21 **INMATE NGO:** No, I am the only one.

22 **PRESIDING COMMISSIONER BRYSON:** Okay well
23 that's good actually. All right and then -- let
24 me go ahead now at this point and divert again
25 to this place of residence, places of residence
26 that you allude to. You have an alternative
27 residency that you've planned in the event

1 something unforeseen occurs. I've made
2 arrangements to obtain housing, transportation,
3 food, clothing at the following addresses. Now
4 are these all relatives?

5 **INMATE NGO:** Yes.

6 **PRESIDING COMMISSIONER BRYSON:** All
7 right, and he lists Lisa and Raymond Lau L-A-U
8 in Alhambra, is that Chi Fong Ngo?

9 **INMATE NGO:** Chi Fong Ngo.

10 **PRESIDING COMMISSIONER BRYSON:** Chi Fong
11 Ngo thank you, that's in Monterey. And Julie
12 and Raymond Seeto S-E-E-T-O in Placentia
13 California.

14 **INMATE NGO:** Right.

15 **PRESIDING COMMISSIONER BRYSON:** That's
16 good so you'll have alternatives and I believe
17 I've seen support letters in here that we will
18 be going over from these people. Okay, so that
19 would be -- upon my release I will be working at
20 the following places of business, so here you
21 are giving options?

22 **INMATE NGO:** Correct.

23 **PRESIDING COMMISSIONER BRYSON:** All
24 right, now you're listing these, you realize
25 does not constitute verification in our minds
26 because this is your out reach. Have you, how
27 have you contacted these establishments, have

1 you had personal contact with them or --

2 **INMATE NGO:** Yes I have personal contact
3 with them because my uncle owns these, the First
4 China Kitchen and Hot Wok.

5 **PRESIDING COMMISSIONER BRYSON:** I see.

6 **INMATE NGO:** And he just started a new
7 business called Empire Lighting, one in New
8 Orleans Heights and one in Riverside.

9 **PRESIDING COMMISSIONER BRYSON:** And what
10 is Empire Lighting, what is it like?

11 **INMATE NGO:** From my understanding it's
12 just selling lamps and stuff.

13 **PRESIDING COMMISSIONER BRYSON:** Lamps and
14 things?

15 **INMATE NGO:** Kitchen furniture and what
16 not, accessories.

17 **ATTORNEY RUTLEDGE:** He has a letter in
18 there to.

19 **INMATE NGO:** Yeah.

20 **PRESIDING COMMISSIONER BRYSON:** All
21 right, okay good.

22 **INMATE NGO:** Updated business card along
23 with it.

24 **PRESIDING COMMISSIONER BRYSON:** Okay.

25 **INMATE NGO:** So and AC Financial which is
26 my brother in law where my sister Julie, Raymond
27 Seeto they own that company.

1 **PRESIDING COMMISSIONER BRYSON:** I see,
2 and what would you do for them do you think?

3 **INMATE NGO:** Well probably clerical
4 duties to begin.

5 **PRESIDING COMMISSIONER BRYSON:**
6 Initially.

7 **INMATE NGO:** To start out.

8 **PRESIDING COMMISSIONER BRYSON:** Okay, all
9 right. Then you have a projected plan for the
10 next two to five years. First you would
11 continue to establish yourself as a law bidding
12 citizen with respect and integrity. Two become
13 a concerned community member about negative
14 influences that our youth face today. Three
15 help to change my community into a safe and
16 wholesome environment. How would you do that?

17 **INMATE NGO:** Well just by teaching kids
18 just you know, talking to kids and cause I'm
19 trying to organize, not try but like organize
20 station called I-Inga right which is based on
21 community for the kids. It's supported by NFL,
22 stores like that and it's well known so I would
23 like to keep in contact with them out there so
24 you know I can educate the kids about what
25 violence gang can impact on family and anyone in
26 the community that sorts.

27 **PRESIDING COMMISSIONER BRYSON:**

32

1 Outstanding, okay. Continue working and open a
2 savings account and finally use money saved to
3 start my own business. You also have made,
4 presented a statement here as to your overall
5 plan. Either I can read that now or you're
6 welcome to read this as part of your closing
7 statement. Would you like to read it then?

8 **INMATE NGO:** Oh no, I have a closing
9 statement.

10 **PRESIDING COMMISSIONER BRYSON:** All
11 right, would you like to read this here?

12 **INMATE NGO:** What?

13 **PRESIDING COMMISSIONER BRYSON:** This is
14 your overall plan, this is immediately following
15 the place of residences.

16 **INMATE NGO:** My overall plan is to spend
17 my time working to earn a living wage, assist my
18 mom with maintaining the household in a loving
19 good atmosphere and to work closely with my
20 assigned parole officer to ensure that my
21 understanding of all conditions of parole is
22 complete and in compliance. The evidence that I
23 asked to present above strongly show great
24 institutional program efforts. More over I have
25 made every attempt to comply with BPT to demand
26 more therapy as shown in psychological
27 consideration portion of this Memorandum. The

1 California Department of Corrections have made
2 final determination that I do not qualify for
3 nor do I require continued therapy where public
4 safety issue are concerned. I've made every
5 effort to change from the immature 19 year old I
6 was at the time of the commitment offense into
7 the mature, responsible and well reasoned 32
8 year old adult I am today. I submit to this
9 panel that my institutional programming is
10 sufficient to warrant a finding of suitability
11 at this time. In addition, I am willing to
12 volunteer submit to a continuous electronic
13 monitoring in accordance with Penal Code 9000
14 and I am willing to have my wages garnished for
15 the purpose of paying for the cost of my parole
16 during the parole period. For the all the
17 reasons stated above I urge this panel of the
18 Board of Prison Terms to make a unanimous
19 finding that I am no longer would pose an
20 unreasonable risk of danger to the public if
21 paroled at this time. Find me suitable for
22 parole and set a release date in accordance with
23 applicable regulation regarding the length of
24 time I may have yet to serve.

25 **PRESIDING COMMISSIONER BRYSON:** Thank
26 you.

27 **INMATE NGO:** Thank you for your time and

1 consideration.

2 **PRESIDING COMMISSIONER BRYSON:** All
3 right, let's go to your support letters.

4 **INMATE NGO:** Okay.

5 **PRESIDING COMMISSIONER BRYSON:** And I
6 believe this even more updated than our board
7 packet so I'll just operate off of this
8 document. Counsel do you concur?

9 **ATTORNEY RUTLEDGE:** Yes.

10 **PRESIDING COMMISSIONER BRYSON:** All right
11 and I'm just going to elude to them, frankly
12 there's quite a few as you know and so we
13 actually, I have read most all of them. I
14 believe the other Commissioner has also and we
15 will be going through them in our deliberations
16 extensively but you have a letter of support
17 from Empire Lighting from Calvin Ung U-N-G Ung
18 and is this your uncle?

19 **INMATE NGO:** My uncle.

20 **PRESIDING COMMISSIONER BRYSON:** Okay, and
21 this is dated June 21st, 2005.

22 **INMATE NGO:** Correct.

23 **PRESIDING COMMISSIONER BRYSON:** And he is
24 totally supportive of your release. He says
25 that I am the Chinese Restaurant and lighting
26 retail business, he mentions both of those.
27 Between these two businesses I have about 25

35

1 employees. At any time I am always will to
2 offer a job position that is suitable for Sieu.
3 All right, he also references other, your
4 siblings, you mom, your other uncles, aunts and
5 cousins who in aggregate provide support and
6 care for you. Then we have a letter, one
7 moment, from Donald G. Rubright R-U-B-R-I-G-H-T
8 the Senior Deputy Public Defender of Orange
9 County, this letter is dated June 23rd, 2005. I
10 represented Mr. Ngo in the case that sent him to
11 prison. I've been a criminal defense lawyer for
12 almost 30 years and I represented over 40
13 persons accused of homicide. I do not see my
14 clients through rose colored glasses however the
15 circumstances of Sieu's case are unusual enough
16 that I feel compelled to make a statement on his
17 behalf. I am going to read this in it's
18 entirety because I think it's worth reading. At
19 the time I represented him, Sieu was a very
20 likeable young man with a minor criminal record.
21 To my recollection he had no convictions for any
22 crimes of violence. The incident in question
23 was very different from the typical "gangs case"
24 and the facts are worth sketching for your
25 review. Sieu and his friends were a want to be
26 type gang who really did not have a significant
27 history or established turf in Orange County.

1 On the day of the incident, some of Sieu's
2 friends by chance went to the McDonalds which
3 was near Fullerton High School in Northern
4 Orange County. Sieu was not present at the
5 time. One of Sieu's friends got in a staring
6 match with the decedent and some of his friends
7 who were members of "Toker Town" T-O-K-E-R a
8 long established Hispanic gang in Fullerton.
9 Essentially the Toker Town group told Sieu's
10 friends that they were not welcome in Fullerton
11 where some of them already lived and they should
12 get out of town. Angered by this Sieu's friends
13 decided to confront the decedents group after
14 school got out that day. Sieu was called to
15 help out in case they should be out numbered.
16 There group waited after school and confronted
17 the decedent and one of his friends about two
18 blocks south of Fullerton High School, not on
19 school grounds. From all appearances this was
20 intended to be a fist fight. Sieu and the
21 friends that had been in the stare down
22 approached the decedent and another young who
23 were walking on the sidewalk. A fist fight is
24 how it started, however the decedent's friend
25 fled just after the punching began and that left
26 Sieu and his friend fighting the decedent who
27 was significantly larger than either of them.

1 Of course this wasn't fair but nothing at this
2 point suggested that this was intended to be a
3 homicide. While the fist fight was ongoing a
4 third member of the group Sieu was part of ran
5 forward to the scene. While the fight was still
6 in progress he reached around Sieu and shot the
7 decedent killing him and narrowly missing Sieu.
8 Sieu and his group then fled ultimately being
9 arrested out of state. Evidence was received to
10 show that Sieu and his friends knew that a gun
11 was in the car. However there was no evidence
12 to show that there was a plan to use it. Based
13 upon the theory of foreseeable consequences,
14 Sieu and several co-defendants were convicted or
15 plead guilty to the murder. The following is
16 underlined, Sieu was not the shooter and no
17 evidence suggested to show that he suggested,
18 encouraged or aided or abetted the shooting in
19 any way. After the shooting Sieu angrily
20 confronted the shooter demanding to know why he
21 brought out the gun and asserting that he, Sieu,
22 didn't know the gun was going to be used. In
23 summary this was not a drive by or similar gang
24 crime where everyone knew that legitimately
25 should have know that death or serious bodily
26 injury was intended. On the contrary this
27 appeared to be an impulsive act by one member of

1 the group which due to the rest of the
2 circumstances swept all of them away by
3 derivative liability. I'm not suggesting that
4 Sieu and the other non shooters bear no
5 responsibility for the tragic outcome but for
6 the fight of course no shooting would have taken
7 place. However I would submit that the
8 circumstances here are significantly mitigated
9 when considered against other convictions of
10 this type. Assuming that Sieu's performance
11 within the Department of Corrections has been
12 positive I would urge his parole at the earliest
13 possible time. Then we have a letter from Chi
14 Phong Ngo of June 30th, 2005, that's C-H-I P-H-
15 O-N-G N-G-O and from your brother. According to
16 the productive things you've done in prison and
17 there willing to help by providing housing,
18 financial aid, job hunt and any other assistance
19 he may need to promote a better life. Now we
20 have next a letter of July 14th, 2005 from okay,
21 Thanh?

22 **INMATE NGO:** Thanh.

23 **PRESIDING COMMISSIONER BRYSON:** Thanh.

24 **INMATE NGO:** My sister.

25 **PRESIDING COMMISSIONER BRYSON:** That's T-
26 H-A-N-H T N-G-O yes she's your older sister,
27 Sieu was the most down to earth, caring and kind

1 person. And then she also is offering support,
2 our families have arranged for his support once
3 released. My husband's store number, she gives
4 that number, in Anaheim, her husband is Raymond.

5 **INMATE NGO:** Right.

6 **PRESIDING COMMISSIONER BRYSON:** Raymond's
7 mom and dad have offered him work if he wishes
8 to work there. Housing would not be a problem.
9 The housing indicated would be located in
10 Placentia and you also had indicated that. Then
11 we have a letter dated June 30th, 2005 from is
12 that Duck Phan Ngo?

13 **INMATE NGO:** Duck Phan Ngo.

14 **PRESIDING COMMISSIONER BRYSON:** Duck Phan
15 Ngo, a brother who gives you general support.
16 Says I work for Kaiser Permanente as a help desk
17 technician. I am willing to provide Sieu with
18 any support, financial or emotional in his
19 transition into society as an obedient citizen.
20 Then July 19th, 2005 from Connie Hua.

21 **INMATE NGO:** Hua.

22 **PRESIDING COMMISSIONER BRYSON:** All
23 right, H-U-A and she's your cousin and has known
24 you since childhood. She reviews your
25 accomplishments, doing all that he can to
26 improve his life, full support, I can offer
27 financial help, advice and encouragement and she

1 offers her family as well. My father can offer
2 him a job at his restaurant. Is that one of the
3 restaurants that you referenced?

4 **INMATE NGO:** Yes, a few of my uncles own
5 restaurants so I can work at any one of them.

6 **PRESIDING COMMISSIONER BRYSON:** I see,
7 all right. Then we have a letter of March 22nd,
8 2004 from Calvin Ung?

9 **INMATE NGO:** Correct, my uncle again.

10 **PRESIDING COMMISSIONER BRYSON:** Okay and
11 then we have a letter of May 22nd, 2004 from
12 Phang Hung Ngo?

13 **INMATE NGO:** My mom.

14 **PRESIDING COMMISSIONER BRYSON:** Okay.

15 **ATTORNEY RUTLEDGE:** These are the letters
16 you brought for your last hearing?

17 **PRESIDING COMMISSIONER BRYSON:** These go
18 back to the last letters.

19 **INMATE NGO:** These were my last letters.

20 **PRESIDING COMMISSIONER BRYSON:** We will
21 take note of that, there are quite a few of
22 them, probably a dozen of them I would say
23 attached. Okay and then earlier letters beyond
24 that. All right this is a very extensive
25 comprehensive support file. All right do you
26 have anything further then because I think this
27 is quite comprehensive at this point.

1 **INMATE NGO:** No, that should cover it.

2 **PRESIDING COMMISSIONER BRYSON:** We will
3 be reviewing this even further. We have sent
4 out 3042 notices, those notices go to agencies
5 having a direct interest in your case. We have
6 a representative from the Orange County District
7 Attorney's Office present who will have the
8 opportunity to make a statement regarding parole
9 suitability prior to the conclusion of this
10 hearing. First Commissioner do you have any
11 questions for the inmate at this time?

12 **DEPUTY COMMISSIONER FILANGERI:** No thank
13 you.

14 **PRESIDING COMMISSIONER BRYSON:** All
15 right, Mr. Crofoot do you have any questions of
16 the inmate?

17 **DEPUTY DISTRICT ATTORNEY CROFOOT:** Thank
18 you, I have -- the reports indicate that the
19 inmate has multiple tattoos, I see specifically
20 referenced a tiger on the chest. Is that tiger,
21 does that have significance with the membership
22 into the Tiger Mafia?

23 **INMATE NGO:** No Sir.

24 **DEPUTY DISTRICT ATTORNEY CROFOOT:** What
25 is the significance of the tiger.

26 **INMATE NGO:** The tiger was just for, it
27 was for Fullerton Boyz you know we all had the

1 same tiger but all different, all five of us.

2 It's not for Tiger Mafia or nothing.

3 **DEPUTY DISTRICT ATTORNEY CROFOOT:** Okay

4 and the Fullerton Boyz is a gang as well is that
5 correct?

6 **INMATE NGO:** It's more like a want to be,
7 there are only five of us, we just friends.
8 Nothing more can say to change it.

9 **DEPUTY DISTRICT ATTORNEY CROFOOT:** The
10 probation report indicates a tattoo Wong Lee
11 under the left arm, what is the significance of
12 that tattoo?

13 **INMATE NGO:** That is my ex-girlfriend's
14 name that's all.

15 **DEPUTY DISTRICT ATTORNEY CROFOOT:** And
16 does the inmate have any other tattoos other
17 than those two?

18 **INMATE NGO:** That one no.

19 **DEPUTY DISTRICT ATTORNEY CROFOOT:** No.

20 **INMATE NGO:** That's all I have.

21 **PRESIDING COMMISSIONER BRYSON:** You don't
22 have any other tattoos is that correct?

23 **INMATE NGO:** Correct.

24 **PRESIDING COMMISSIONER BRYSON:** All
25 right.

26 **DEPUTY DISTRICT ATTORNEY CROFOOT:** Was
27 the inmate attending college at the time of this

1 crime?

2 **INMATE NGO:** Yes I was, I was attending
3 at Pasadena City College..

4 **DEPUTY DISTRICT ATTORNEY CROFOOT:** And
5 was this --

6 **DEPUTY COMMISSIONER FILANGERI:** This is
7 side two of the tape recording of the hearing
8 transcript for Mr. Sieu Ngo, last name spelled
9 N-G-O J-07024. Sorry for the interruption.

10 **DEPUTY DISTRICT ATTORNEY CROFOOT:** Thank
11 you. The car that was used on the day of the
12 crime, was that the inmate's car?

13 **INMATE NGO:** No it wasn't.

14 **DEPUTY DISTRICT ATTORNEY CROFOOT:** Whose
15 car was that?

16 **INMATE NGO:** I think it belonged to Jimmy
17 Dao.

18 **DEPUTY DISTRICT ATTORNEY CROFOOT:** And
19 that car was later burned is that correct?

20 **INMATE NGO:** Correct Sir.

21 **DEPUTY DISTRICT ATTORNEY CROFOOT:** All
22 right and what were the circumstances of burning
23 that car?

24 **INMATE NGO:** My friend wanted to get rid
25 of it so when we were leaving the state of
26 California we didn't want to be followed so they
27 decided to burn it.

1 **PRESIDING COMMISSIONER BRYSON:** Where did
2 you do that?

3 **INMATE NGO:** At that point I wasn't even
4 there but I knew what they did when they told me
5 but it was in somewhere, I think it was, I'm not
6 sure but I think it was near some beach or
7 something. I don't know exactly where though
8 because I wasn't there.

9 **DEPUTY DISTRICT ATTORNEY CROFOOT:** Where
10 did the murder weapon come from?

11 **INMATE NGO:** Now I know that Asat Chan
12 who live in Washington I think he stole a gun
13 and brought it to California. That's the only
14 thing I know.

15 **DEPUTY DISTRICT ATTORNEY CROFOOT:** Was
16 that person involved in this crime?

17 **INMATE NGO:** Yes he was.

18 **DEPUTY DISTRICT ATTORNEY CROFOOT:** And
19 did he return to Washington with you?

20 **INMATE NGO:** Yes he was -- when we were
21 arrested he was arrested with me and Jimmy Dao
22 at that time.

23 **DEPUTY DISTRICT ATTORNEY CROFOOT:** And
24 when you were arrested you still had the murder
25 weapon is that correct?

26 **INMATE NGO:** Correct.

27 **DEPUTY DISTRICT ATTORNEY CROFOOT:** Thank

1 you I have no further questions.

2 **PRESIDING COMMISSIONER BRYSON:** All
3 right, Counselor do you have questions for the
4 inmate?

5 **ATTORNEY RUTLEDGE:** Yeah I do. Clearly
6 you've been busy since you've been here.

7 **INMATE NGO:** Yes I have.

8 **ATTORNEY RUTLEDGE:** And when you were
9 going to college, you were going to college when
10 this happened and you were?

11 **INMATE NGO:** Just visiting them.

12 **ATTORNEY RUTLEDGE:** Okay that's what I
13 was getting at. So what was your social life
14 after -- did you move to Pasadena at that time
15 or were you just going to college there?

16 **INMATE NGO:** I moved down there you know
17 back to LA because I want to straighten out my
18 life you know, get away from so called gang but
19 I was trying to straighten out, I had a steady
20 girlfriend, I was going back to college trying
21 to straighten out my life. I hadn't seen my co-
22 defendant in a little over a year when, before
23 this happened you know so that -- they called me
24 up one day you know to come visit them and one
25 thing led to another, this is what happened.

26 **ATTORNEY RUTLEDGE:** And what do you think
27 -- were you able to ever apologize to the

4b

1 victim's mother or family?

2 **INMATE NGO:** At the time I tried to
3 during court but I guess she didn't want to hear
4 it so she walked out on me. I made an attempt
5 but I wasn't successful at that though because
6 she left the court.

7 **ATTORNEY RUTLEDGE:** All right, and how do
8 you think the loss of this young man affected
9 his mother and he had other siblings, how did
10 that affect them?

11 **INMATE NGO:** There is really no word can
12 express how truly and deeply sorry I am for the
13 victim's family because the pain and suffering a
14 mother goes through is incomprehensible because
15 it just affect the family and it just everyone
16 that's involved in this crime. I know this
17 because you know I lost loved one myself so I
18 know, I can emphasize what the family is going
19 through, friends, I mean just everyone, the
20 community that knows Angel Gonzales you know but
21 at this time I can't change what happened you
22 know. I wish I could make the pain go away but
23 I can't, I'm only human. But I am truly, truly
24 sorry for what happened to Angel. It was never
25 my intention to take his life. It thought it
26 was going to be a fist fight and at a young age
27 I never in my wildest dream think something like

1 this was going to happen. So I take full
2 responsibility for my action, there's no doubt.
3 I deserve to be punished you know, I'm willing
4 to do my time for this so all I can say at this
5 time is I am truly, truly sorry for what I have
6 done to the Gonzales family. I know what each
7 and every day it's like for them without there
8 son so that's all I have to say.

9 **ATTORNEY RUTLEDGE:** Have you been in any
10 fights since you've been in the institution?

11 **INMATE NGO:** No I haven't. I been
12 disciplinary free.

13 **ATTORNEY RUTLEDGE:** All right, how do you
14 stay -- have you managed to stay away and I
15 wanted to ask you to have you been involved with
16 any gangs in the prison?

17 **INMATE NGO:** No I haven't.

18 **ATTORNEY RUTLEDGE:** How have you managed
19 to keep yourself from the gangs and not involve
20 yourself in any violence?

21 **INMATE NGO:** Knowing what I know today
22 about what impact a gang can have on people. I
23 have grown so I know to change my behavior for
24 the better.

25 **ATTORNEY RUTLEDGE:** You mentioned, did
26 you recently loose a co-worker here at the
27 prison?

1 **INMATE NGO:** Yes I have.

2 **ATTORNEY RUTLEDGE:** And how did that
3 impact your life?

4 **INMATE NGO:** Realize life is short you
5 know and anything can happen. I mean he was a
6 good man, older individual. His name was
7 Nicholas you know. The last thing I said to him
8 when you know I see you out in the yard. I gave
9 him a hug but when I came back from visit that's
10 the first thing I heard was that he passed away
11 and I just couldn't believe it you know like
12 something like this happens so short you know.
13 Life is so unpredictable.

14 **ATTORNEY RUTLEDGE:** No further questions
15 for Mr. Ngo.

16 **PRESIDING COMMISSIONER BRYSON:** I have a
17 couple of questions. We didn't really discuss
18 and I would like to know what your history has
19 been -- have you trafficked drugs?

20 **INMATE NGO:** No I haven't Ma'am.

21 **PRESIDING COMMISSIONER BRYSON:** And how
22 was it that you were associated with cocaine at
23 one point in your life?

24 **INMATE NGO:** Well at that point you know
25 I tried it, a friend introduced me to it so I
26 tried it and I bought three piece of rock
27 cocaine as I was going home I was pulled over by

1 the police, got arrested.

2 **PRESIDING COMMISSIONER BRYSON:** And
3 that's your whole history with cocaine?

4 **INMATE NGO:** Yeah, pretty much.

5 **PRESIDING COMMISSIONER BRYSON:** Okay, how
6 about alcohol?

7 **INMATE NGO:** I don't drink alcohol, I'm
8 allergic to alcohol.

9 **PRESIDING COMMISSIONER BRYSON:** Okay.

10 **INMATE NGO:** I break out in hives. Tried
11 it though but that's how I knew I was allergic
12 to it.

13 **PRESIDING COMMISSIONER BRYSON:** Okay well
14 that answers those questions. Thank you. All
15 right, I'd like to invite the District Attorney
16 Mr. Crofoot to make a closing statement at this
17 time.

18 **DEPUTY DISTRICT ATTORNEY CROFOOT:** Thank
19 you. At the time of this offense he was on
20 diversion for possession for that rock cocaine.
21 He was a gang member, Don Rubright stated in his
22 letter that this gang had not established a
23 territory. The fact is Asian gangs generally
24 are not territorial as opposed to Spanish gangs
25 which are. So that is meaningless, there in a
26 gang he was in the Tiger Mafia previously to
27 Fullerton Boyz. Apparently in the gang

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1 significantly in that he chose to have his chest
2 tattooed with a tiger relating to that gang
3 affiliation. One of the correctional counselors
4 indicated that he was immature at the time of
5 the crime and easily influenced by peers.
6 Actually he was 19 years old at that time, he
7 was out of high school, he was in his first year
8 of college and in his story had moved away from
9 the gang influence. However at the request of
10 the other gang members he did return to
11 Fullerton, he entered into a, there was an
12 argument at McDonalds between the Asian gang
13 members and the Fullerton Toker's Gang, a
14 Mexican gang. That was a verbal confrontation.
15 They left, they the defendant, the inmate and
16 his cohorts left and went to another location
17 where they obtained a gun, returned to the
18 location where the 15 year old victim was
19 attending school and there they waited for the
20 victim, lay and wait for him and when the victim
21 came out the three of them attacked that victim
22 and ultimately the victim was shot in the back.
23 They fled to Washington, saw fit to destroy the
24 vehicle, burn the vehicle which might have
25 identified them. However they also chose to
26 hang onto that 22 handgun which was the murder
27 weapon and they possessed that at the time they

1 were arrested. This inmate denied knowledge of
2 the gun until it was in the vehicle, until it
3 was in the vehicle is the key because this is
4 pre-shooting. He knew of the gun prior to going
5 to lay and wait for the 15 year old victim. He
6 indicates that they didn't intend to kill the
7 victim, they only intended to beat him up. So
8 they chose to bring a handgun to a fist fight.
9 The inmate indicates that they had the gun for
10 protection if someone else had a gun. If
11 someone else chose, if they thought that someone
12 else had a gun and they bring a gun, it's
13 inevitable that there is going to be a shooting.
14 If he wanted to stay out of this he had plenty
15 of opportunity to walk away when all they had
16 previous to that was a verbal altercation. The
17 reason for the shooting was inexplicable, it was
18 a minor affront during this argument, I'm sorry,
19 the victim said get out of town and that's the
20 basis for this killing. In 1990, two years
21 prior to this, there was a similar cowardly
22 attack by this inmate and others. There were --

23 **ATTORNEY RUTLEDGE:** I would object to
24 that, do we have a police report for that?

25 **DEPUTY DISTRICT ATTORNEY CROFOOT:** It's
26 in the probation report.

27 **ATTORNEY RUTLEDGE:** But they couldn't --

1 my understanding is that they couldn't confirm
2 it, they couldn't reach the victim.

3 **DEPUTY DISTRICT ATTORNEY CROFOOT:** The
4 police report is right there, it's on page ten
5 of the probation report.

6 **ATTORNEY RUTLEDGE:** I would object to it
7 unless they can produce, it's like triple hear
8 say of actual police report.

9 **PRESIDING COMMISSIONER BRYSON:** Okay,
10 that's over ruled, I won't be looking at all
11 that information.

12 **DEPUTY DISTRICT ATTORNEY CROFOOT:** It was
13 a similar attack, the victim was confronted by
14 three, this inmate and two others. He was
15 struck and this inmate was the second person to
16 strike that victim when the victim went down he
17 was kicked and punched by the three of them. So
18 this is not, this one shooting is a culmination
19 of what was going to happen and what was going
20 to happen eventually and it did and it happened
21 in 1992. The inmate is programming but he was
22 programming at the time that he got involved in
23 this gang activity. He was attending college at
24 that time, he had moved from the area at that
25 time, it appeared that he was moving ahead as it
26 appears here that he's moving ahead. But he
27 chose to go back and get involved in this gang

1 activity again and that's why he's here. And I
2 think that he has served his MAPD was less than
3 two years ago, one and a half years ago. I
4 think that he is - I'm sorry two and a half
5 years ago. And I don't think that he has served
6 enough time and I would ask that the board not
7 grant him a date at this time. Thank you.

8 **PRESIDING COMMISSIONER BRYSON:** Thank
9 you. All right counsel I would like to invite
10 you to make a closing statement.

11 **ATTORNEY RUTLEDGE:** Thank you. Well I
12 think that the most important thing that I would
13 comment that the people shared with us was that
14 this happened in 1992. I wouldn't consider Mr.
15 Ngo programming when he was on, he had a
16 diversion charge at that time. I think again
17 that he had just been an adult for about one
18 year. I think he's discussed openly with the
19 panel his -- and if you have any other questions
20 about what his motivation was to be involved
21 with these people or what they were involved in
22 feel free to ask him again but I think he has
23 pretty much answered that. I commented to him
24 you know, it's a miracle that most teenagers
25 survive the teen years because there is such a
26 high possibility of them to get involved in
27 stupid things like this. This was a very

1 unfortunate situation and you know a clear
2 picture of an ignorant teenager thinking let's
3 just go get in a fight not appreciating at the
4 time that any type of violence has a potential
5 for something serious. I think he clearly sees
6 that now, in fact he noted to the board that he
7 would like to share that with other people at
8 risk and I think that is, we still have young
9 people that are out there at risk for thinking
10 that they are just going to be beating up people
11 and not truly appreciating and I think there's
12 evidence that at that age your -- everything is
13 not together that's why teenagers act like there
14 from another planet. But, I think there is a
15 truly different person here today at 32. He's
16 been down for this time. There hasn't been any
17 evidence of any drug use or gang affiliation. I
18 believe that some of these co-defendants are
19 housed here at CTF. Is that correct?

20 **INMATE NGO:** Correct.

21 **ATTORNEY RUTLEDGE:** And there has been no
22 further action. I think this did -- which I
23 would say I would speculate that this was an
24 isolated incident for these boys. I think, I
25 don't think that that behavior marked Mr. Ngo's
26 life long traits as a person. I think it was
27 sort of an immature wrong. I mean I am not

1 going to disagree with the people, it was
2 clearly wrong, clearly had the potential for
3 what happened. And I think we have all been
4 teenagers, we know how these kids don't think
5 these things through and it's very serious and
6 it had a tremendous impact on the community and
7 on this family and I believe that Mr. Ngo also
8 is in touch with that. That said the amount of
9 time that he's served, he has served 13 years.
10 Is it 13 or 14?

11 **INMATE NGO:** About 13, almost 13.

12 **ATTORNEY RUTLEDGE:** Almost 13 years and
13 he came into the system when he was quite a
14 young man so in his twenties. We all can
15 remember the twenties. That's a significant
16 time of your life. It's almost like if you
17 loose your twenties you've lost half your
18 thirties and your forties because that is such a
19 prime time. So I would like the panel to when
20 you think about the amount of time he's served
21 think about the time of his life when everyone's
22 going to college or discovering life. He lost
23 that whole decade, I mean he gave it up, I
24 shouldn't say it was taken away from him, he
25 made that decision to get involved in that
26 behavior and gave it up but I do believe that's
27 stronger punishment had he been older it would

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1 have been a little bit different. He's lost, he
2 gave up the prime years of his life in exchange
3 for this act. He had no juvenile record, his
4 stable social history is all there. All the
5 letters written by his family and also all the
6 reports in the file indicate that he had good
7 family ties, his family had there own business,
8 they were highly productive members of society.
9 And as far as remorse goes I think his comments
10 speak for themselves and also what he has
11 included in his Memorandum, I would incorporate
12 that into the remorse. And his psychological
13 reports also underlie his true feelings of
14 remorse for what he's done. And the motivation
15 for the crime, I mean what can you say about
16 that. I'm not sure -- there are rare
17 circumstances when there is any way that you can
18 explain away this type of situation. Other than
19 the fact again that you've got a bunch of
20 immature teenagers and I would note that when we
21 talk about gangs its one thing if one of us says
22 get out of town but when a gang member says
23 that, its almost like a threat you know. If
24 there affiliated with dangerous people and they
25 tell other people to get out of town that should
26 put them on notice that something could happen
27 if they don't get out of town. Mr. Ngo had one

1 prior incident with his diversion which he up
2 until the commitment offense he was completing
3 that. His maturity level I think is quite
4 significant. I think its obvious he has spent
5 this time in prison because he's a little bit
6 more mature than we would expect at that age but
7 that's probably what prison does to people. And
8 his understanding and plans for the future, that
9 goes without saying, he's submitted a Memorandum
10 that's covered every applicable suitability
11 factor as far as skills, he's got three vocs,
12 he's got -- he had been in college, he had
13 completed high school so he does have an
14 aptitude for academics. He's got the highest
15 TAB score and he has jobs lined up, family
16 support and interesting in his file to is he has
17 been giving money to organizations that are
18 feeding children. I don't know if you noted,
19 there was a letter thanking him for that so he
20 seems to have a community, a sense of community.
21 His institutional behavior is exceptional.
22 Nothing violent, no substance abuse, nothing
23 again to show that he has any motivation to
24 continue that, the path that he was on when he
25 entered the CDC. There is no documentation that
26 he's ever disrespected inmates or staff, he has
27 marketable skills, he has many years of self

1 help, he's fully prepared really for life among
2 free society as a productive citizen. I think
3 he has covered every possible basis that is
4 necessary for his integration and his behavior
5 here indicates an enhanced ability to actually
6 function within the law. I mean he knows he is
7 the know what can happen when you aren't
8 following the norms of society. And while he
9 has been here he has lost his father and been
10 able to get more of an idea of the impact that
11 the death of Mr. Gonzales had on his family
12 which he expressed here today. All those things
13 considered I would ask the board to please give
14 him a parole date today. Thank you.

15 **PRESIDING COMMISSIONER BRYSON:** Thank
16 you. Sir I would like to give you an
17 opportunity to make a final statement to this
18 panel regarding your suitability for parole.

19 **INMATE NGO:** All right. I would like to
20 read, I wrote this. First and for most there is
21 no adequate amount of words in the universe
22 which can express the truly deeply sorry I am to
23 Gonzales family for all the pain and suffering I
24 caused them and everyone else who was affected
25 by Angels death. In hindsight I wish I could
26 have changed what happened on that tragic day
27 but the truth is I really did not know what was

1 about to happen that very instant that took
2 Angel's life. At the time I honestly believe I
3 was getting into a fist fight and nothing more..
4 I did not take Angel's life, it was never my
5 intention that is such a tragic incident would
6 occur. Again I was there for a fist fight,
7 nothing I say or do at this point will ever
8 change what happened on that tragic day. All I
9 can do on my part is to accept full
10 responsibility for my action alone. I hope and
11 pray that someday the Gonzales family will find
12 it in there hearts to forgive me for my actions.
13 We all have made mistakes at some point in our
14 lives, some more than others but as individual
15 how we choose to learn, grow and change our
16 behavior does set us apart from the one who
17 don't. Today as I sit in front of you I am no
18 longer the young stupid naive 19 year old back
19 then but as a good decent 32 year old mature
20 adult who is intelligent enough to know the
21 difference between right and wrong. Who is able
22 to think things through before reacting to any
23 situation and responsible for any actions that I
24 may take here on out. I know in my heart and
25 soul that I am a good decent person who as a
26 young man made some very poor choices which I
27 am truly sorry for. There is not a single day

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1 that goes by that I don't think about what
2 happened to Angel and what his family is going
3 through. Everyday I wake up in here, it's a
4 constant reminder of that tragic day. I deserve
5 to be punished for my actions but I believe I
6 have served more than enough time for my
7 actions. In closing I understand the difficulty
8 of you task as Commissioner in determining ones
9 suitability with regard to public safety. All
10 that I ask of you is please don't judge me for
11 one of my unchanging aspect of my past conduct
12 to find who I am today. But look at all that I
13 have accomplished during my incarceration. With
14 absolute certainty I know I am a better person
15 today than I was when I committed this
16 unfortunate offense. I know I will never come
17 back in prison and I know I can be a law,
18 productive law bidding citizen if you would only
19 give me a second chance. Should you find me
20 suitable here today the rules that govern this
21 panel in setting my term of confinement are set
22 forth in California Code of Regulation title 15
23 division two section 2403, the conduct most
24 closely related to the crime I've committed is
25 category A section three. Which has a minimum
26 term of 17 years medium term of 18 years and a
27 maximum term of 19 years. I respectfully

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1 request that this panel set my appropriate term
2 of 17, 18 or 19 years. And please, please give
3 me a second chance. I know I will be a law
4 bidding citizen. I know I can make it out
5 there. I won't be a statistic that comes back
6 in here. I will never, never come back in to
7 prison. I have a family that's waiting for me
8 out there. So please grant me a date today.
9 Thank you for your time today.

10 **PRESIDING COMMISSIONER BRYSON:** Thank you
11 for your remarks. We will now recess for
12 deliberations the time is 11:11 A.M.

13 **R E C E S S**

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1 CALIFORNIA BOARD OF PAROLE HEARINGS

2 D E C I S I O N

3 DEPUTY COMMISSIONER FILANGERI: Okay
4 we're back on record.

5 PRESIDING COMMISSIONER BRYSON: All
6 right, the time is 11:58 A.M. in the matter of
7 Sieu Phong Ngo.

8 DEPUTY COMMISSIONER FILANGERI: Did
9 somebody tell the DA?

10 PRESIDING COMMISSIONER BRYSON: Oh my
11 apologies. We'll start is all again. Why don't
12 you please find the DA.

13 ATTORNEY RUTLEDGE: He went home.

14 DEPUTY COMMISSIONER FILANGERI: We're on
15 record.

16 PRESIDING COMMISSIONER BRYSON: The time
17 is 11:59 in the matter of Sieu Phong Ngo. Sir
18 the panel reviewed all information received from
19 the public and you and relied on the following
20 circumstances in concluding that you are not
21 suitable for and would pose an unreasonable risk
22 of danger to society or a threat to public
23 safety if released from prison. The offense was
24 carried out in an especially cruel and callous
25 manner in that you attacked and beat a 15 year
26 old male, Angel Gonzales who was ultimately shot
27 SIEU NGO J-07024 DECISION PAGE 1 2/8/06

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1 in the back and died at the scene. The offense
2 was carried out in a dispassionate and
3 calculated manner in that it was a confrontation
4 between gang members preplanned by lying in wait
5 for the victim as he walked home. The offense
6 was carried out in a manner demonstrating
7 exceptionally callous disregard for human
8 suffering, disregard for public safety in that
9 it occurred near a school and there was a clear
10 opportunity for you to cease but you continued.
11 Despite some prior record of involvement with
12 cocaine this panel recognizes and submits that
13 you have a relatively criminal free background
14 and you are to be commended for that. And you
15 have a history of stable relationships including
16 your family support. We do not have evidence
17 that you have a long history with established
18 gangs and so we do not point to that in terms or
19 your history of relationships. And it will be
20 further discussed you have presented to us a
21 history of strong stable social support. As to
22 your institutional behavior you have programmed
23 commendably, your education includes 41 units
24 towards you AA Degree and continuing involvement
25 with college enrollment including your current
26 independent study through Coast Line Community
27 SIEU NGO J-07024 DECISION PAGE 2 2/8/06

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1 College. We also have read into the record a
2 very reputable list of vocational achievements
3 including automotive refinishing and upholstery,
4 forklift operator, salesmanship and other
5 vocational work. You have participated in self
6 help and therapy, well self help consistently
7 ranging from Anger Management, the Teddy Bear
8 Drive, Feed the Children, Buddhist ordination
9 into Buddhist Studies, the Impact Program, Key
10 to Fatherhood, The Muslim Chapel, and you have
11 assisted in inmate education. As to misconduct
12 you have zero 115's, you have two minor 128A's,
13 the last in 2000 for window covering. As to
14 your psychological report, the report that is
15 dated January 23rd, 2002, the last we have by
16 Doctor Saindon S-A-I-N-D-O-N does in general
17 support release. And I quote, this man has
18 spent ten years in prison and that is at the
19 time of this psychological report, I would
20 recommend should he be paroled abstinence from
21 all alcohol or use of any controlled substance,
22 frequent monitoring for substance abuse, he
23 should be relocated so that he is near his
24 family, he should make frequent reports to his
25 parole officer concerning his vocational
26 progress and goals. And due to his families
27 SIEU NGO J-07024 DECISION PAGE 3 2/8/06

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1 commitment to supporting him upon his release,
2 his projected level of success in the community
3 if granted a date for parole is seen at this
4 time to be better than average. You also have
5 made outstanding parole plans. You have viable
6 residential plans in the last county of legal
7 residence and I refer to the record for the
8 documentation that we have received. You also
9 have acceptable employment plans with
10 established businesses owned by your relatives
11 who are assuring you of jobs. As to Penal Code
12 3042 responses, the responses indicate
13 opposition to a finding of parole suitability,
14 specifically by the District Attorney of Orange
15 County. In a separate decision the hearing
16 panel finds it's not reasonable to expect that
17 parole would be granted at a hearing during the
18 following two years. Specific reasons for this
19 finding are as follows. The panel reviewed all
20 information received from the public and relied
21 on the following circumstances. The offense was
22 carried out in a specially cruel and callous
23 manner in that you attacked and beat a 15 year
24 old Angel Gonzales who was ultimately shot in
25 the back and died at the scene. The offense was
26 carried out in a dispassionate and calculated
27 SIEU NGO J-07024 DECISION PAGE 4 2/8/06

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1 manner, it was a confrontation between gang
2 members preplanned by lying in wait for the
3 victim as he walked home. The offense was
4 carried out in a manner demonstrating
5 exceptionally callous disregard for human
6 suffering. The offense risked public safety in
7 that it was conducted near a school and you had
8 a clear opportunity to cease but continued.
9 Moreover, the motive for this crime was very
10 trivial in relation to the offense. It was gang
11 activity and you told this panel "I thought I
12 was going to a fist fight", that minimizes the
13 gravity of the crime, your involvement in it and
14 there fore your insight into the gravity of this
15 crime. In denying you parole for two years this
16 panel will place the prisoner on the 2008
17 calendar for the next Subsequent Hearing. If
18 this decision is final you will not get parole,
19 the board will send you a copy of the decision.
20 It will indicate the reasons you did not get
21 paroled. If this decision is not final the
22 board will set up another hearing. You can find
23 the laws of California Code of Regulations title
24 15 section 2041. The board recommends get self
25 help, stay discipline free, get therapy, and
26 continue your educational and vocational
27 SIEU NGO J-07024 DECISION PAGE 5 2/8/06

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1 development plus your outreach to help others.

2 Commissioner do you have anything further?

3 **DEPUTY COMMISSIONER FILANGERI:** Yeah, the
4 thing that bother's me the most is you know our
5 job is to determine whether your release would
6 pose an unreasonable risk to public safety and
7 one of the tools that we look at, one of the
8 tools that I like to try to use in that is your
9 insight into the crime. I think your contention
10 that you were going to a fist fight when you
11 somebody else was armed is hard to believe and
12 as Commissioner said it tends to minimize your
13 role. I can see where you might be motivated to
14 minimize your role. What it means to me is that
15 you haven't come to grips, you haven't developed
16 the insight that you need into the causative
17 factors of this crime and I think you should
18 look at that. Moreover you told the
19 psychiatrist that no one intended to kill the
20 victim, well even if you weren't holding the gun
21 somebody came to a fist fight with a gun and
22 what was that person's intentions. So it's hard
23 for me to get a gauge on what risk you would
24 pose to public safety when I can't feel
25 comfortable about the level of insight that
26 you've displayed. And that's what prevents me
27 **SIEU NGO J-07024 DECISION PAGE 6 2/8/06**

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1 from granting you a date. I wish you the best
2 of luck, you've been doing good work in the
3 institution, I hope you keep it up. Thank you.

4 **PRESIDING COMMISSIONER BRYSON:** Please
5 don't get discouraged, I hope you will take this
6 as a challenge and an opportunity. And that
7 concludes this hearing and the time is 12:08
8 P.M.

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23 **PAROLE DENIED TWO YEARS**

24 **THIS DECISION WILL BE FINAL ON:** JUN 8 2006

25 **YOU WILL BE PROMPTLY NOTIFIED, IF PRIOR TO THAT**
26 **DATE, THE DECISION IS MODIFIED.**

27 **SIEU NGO J-07024 DECISION PAGE 7 2/8/06**

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CERTIFICATE AND
DECLARATION OF TRANSCRIBER

I, SUE GERDES, a duly designated transcriber, PETERS SHORTHAND REPORTING, do hereby declare and certify under penalty of perjury that I have transcribed tape(s) which total one in number and cover a total of pages numbered 1 - 66, and which recording was duly recorded at CORRECTIONAL TRAINING FACILITY, SOLEDAD, CALIFORNIA, in the matter of the SUBSEQUENT PAROLE CONSIDERATION HEARING OF SIEU NGO CDC NO. J-07024, ON FEBRUARY 8, 2006, and that the foregoing pages constitute a true, complete, and accurate transcription of the aforementioned tape to the best of my ability.

I hereby certify that I am a disinterested party in the above-mentioned matter and have no interest in the outcome of the hearing.

Dated February 27, 2006 at Sacramento,
California.



SUE GERDES
TRANSCRIBER
PETERS SHORTHAND REPORTING

EXHIBIT B

INITIAL PAROLE CONSIDERATION HEARING

STATE OF CALIFORNIA

BOARD OF PRISON TERMS

In the matter of the Life)
Term Parole Consideration)
Hearing of:)

CDC Number J-07024

SIEU PHONG NGO)
_____)

COPY
INMATE

CORRECTIONAL TRAINING FACILITY

SOLEDAD, CALIFORNIA

MAY 13, 2002

2:20 P.M.

PANEL PRESENT:

AL ANGELE, Presiding Commissioner
ROBERT RODRIGUEZ, Deputy Commissioner

OTHERS PRESENT:

SIEU PHONG NGO, Inmate
PAT FOX, Attorney for Inmate
JAMES LAIRD, Deputy District Attorney

CORRECTIONS TO THE DECISION HAVE BEEN MADE

☒ No
☐ Yes

See Errata Sheet

Valerie Lord, Transcriber

Capitol Electronic Reporting

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P R O C E E D I N G S

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PRESIDING COMMISSIONER ANGELE: --- hearing,

pronounce your last name.

INMATE NGO: Ngo.

PRESIDING COMMISSIONER ANGELE: Ngo?

INMATE NGO: Yes.

PRESIDING COMMISSIONER ANGELE: First name?

INMATE NGO: Sieu.

PRESIDING COMMISSIONER ANGELE: Sieu, okay.

Initial parole consideration hearing for Sieu Ngo,
that's N-G-O, CDC number J-John-07024. Today's
date Monday, May 13, 2002. The time approximately
2:20 p.m. We're located at CTF Soledad. Inmate
received February the 1st, 1994, Orange County,
murder second degree. Case number C-Charles
99109, count number one, 187 of the Penal Code.
Received a term of 16 years to life, with a
minimum eligible parole date of May the 24th,
2003. Mr. Ngo, this hearing's going to be
tape-recorded. For the purpose of voice
identification, each of us will state our first
name, last name, spelling our last name. When it
comes to your turn, after you spell your last
name, give us your CDC number. I'm going to go to
my left. My name is Al Angele, A-N-G-E-L-E,
Commissioner, Board of Prison Terms.

DEPUTY COMMISSIONER RODRIGUEZ: Deputy

1 Commissioner Rodriguez, R-O-D-R-I-G-U-E-Z, Board
2 of Prison Terms.

3 **DEPUTY DISTRICT ATTORNEY LAIRD:** James
4 Laird, Orange County District Attorney's office,
5 L-A-I-R-D.

6 **ATTORNEY FOX:** Pat Fox, F-O-X, attorney for
7 Mr. Ngo.

8 **INMATE NGO:** Ngo, N-G-O. First name,
9 S-I-E-U. Middle name Phong, P-H-O-N-G.

10 **DEPUTY COMMISSIONER RODRIGUEZ:** Prison
11 number?

12 **INMATE NGO:** J-07024.

13 **DEPUTY COMMISSIONER RODRIGUEZ:** You can
14 bring that closer to you.

15 **PRESIDING COMMISSIONER ANGELE:** Let the
16 record reflect that there are also two
17 correctional officers in the room for security
18 purposes and will not be participating in today's
19 hearing. The hearing is being conducted pursuant
20 to Penal Code Sections 3041 and 3042 and the rules
21 and regulations of the Board of Prison Terms
22 governing parole consideration hearings for life
23 prisoners. The purpose of today's hearing is to
24 consider your suitability for parole. We'll
25 consider the crimes you were committed for, your
26 prior criminal and social history and your
27 behavior and programming since your commitment.

1 We'll reach a decision today and inform you
2 whether or not we find you suitable for parole and
3 the reasons for our decision. If we find you
4 suitable for parole, the length of your
5 confinement will be explained to you. Before we
6 go any further, I want to instruct you, Mr. Ngo,
7 that if you do not get a date today, this is your
8 initial hearing and this will form the foundation
9 of all future hearings, okay. In saying that, we
10 ask that you be totally truthful with us. Nothing
11 you say today is going to change the outcome of
12 your court case, okay. If you tell us things
13 today that are not true, I'm sure somewhere down
14 the line it's going to catch up to you and you're
15 going to wind up finding yourself with a situation
16 where nobody knows what the story is, the right
17 story. So, we need to have the total truth today,
18 okay. I'm going to explain to you the way the
19 system is going to work. We're going to have two
20 different segments. I'm going to discuss with you
21 the crime, your prior criminal and social history.
22 I'm going to discuss with you your parole plans,
23 any letters of support or opposition that are in
24 the record. And Commissioner Rodriguez will then
25 discuss with you your programming since your
26 commitment, your psychological evaluation, your
27 counselor's report and he'll also discuss with you

1 any sort of discipline that you may have had.
2 Once that is conducted, we will then have the
3 ability to ask you questions, as will the District
4 Attorney and your attorney. After that, the
5 District Attorney, your attorney and yourself,
6 will have the opportunity to make a closing
7 statement. Once the closing statements are done,
8 we'll recess, clear the room and deliberate. When
9 we have completed our deliberations, we'll resume
10 the hearing and announce our decision. The Board
11 of Prison Terms' rules and the law state a parole
12 date shall be denied if your release would pose an
13 unreasonable risk of danger to others. Do you
14 understand that?

15 **INMATE NGO:** The last part, I ---

16 **PRESIDING COMMISSIONER ANGELE:** The law
17 requires that parole would be denied if your
18 release would pose an unreasonable risk of danger
19 to others. Now you have certain rights. Those
20 rights include a timely notice of this hearing, a
21 right to review your Central file, have an Olson
22 Review, and a right to present relevant documents.
23 Have those rights been so far, Ms. Fox?

24 **ATTORNEY FOX:** Yes, they have.

25 **PRESIDING COMMISSIONER ANGELE:** You have an
26 additional right and that's to be heard by an
27 impartial Panel. Any objections to either member

1 of this Panel?

2 **ATTORNEY FOX:** At this time on behalf of
3 Mr. Ngo, I'd pose an objection. It's not possible
4 for Mr. Ngo to receive a fair hearing before any
5 Panel comprised of members of the Board of Prison
6 Terms as it's currently constituted. That's based
7 on their policies, practices, and procedures, as
8 well as on the practices, policies, and public
9 statements of the governor.

10 **PRESIDING COMMISSIONER ANGELE:** Can you
11 enumerate the policies and practices of this
12 particular Panel?

13 **ATTORNEY FOX:** My understanding is that when
14 a date, for instance, when a date is granted the
15 Board of Prison Terms submits to the governor a
16 list of reasons why the date should not be granted
17 after the Panel has already found the person
18 suitable. So I think there's a conflict there.
19 And just the inherent conflict of interest having
20 been appointed by the governor and answering back
21 to the governor.

22 **PRESIDING COMMISSIONER ANGELE:** First of all
23 the statement with regards to the Board of Prison
24 Terms providing the governor with a list of
25 reasons not to find the inmate suitable for parole
26 is not true. The governor has staff that reviews
27 these cases that have nothing to do with Board of

6

1 Prison Terms and it is they who present the
2 governor with reasons (inaudible) to. As far as
3 this particular Panel goes, I am an appointee of
4 the governor. I've never discussed with him my
5 appointment, nor have I discussed with him his
6 philosophy on parole dates. I have given a number
7 of parole dates in the past and will continue
8 doing that as long as I'm on this Board. And
9 there's no reason at all that I feel that I am not
10 able to give or to be fair and impartial.
11 Commissioner Rodriguez.

12 **DEPUTY COMMISSIONER RODRIGUEZ:** I'm a civil
13 servant and I've always been known to be fair and
14 impartial as well as I've been on panels with
15 Commissioner Angele where we have given a number
16 of dates at various prisons throughout California.

17 **PRESIDING COMMISSIONER ANGELE:** I'll
18 overrule your objection, anything else?

19 **ATTORNEY FOX:** No, that's all. Thank you.

20 **PRESIDING COMMISSIONER ANGELE:** Okay,
21 Mr. Ngo, do you have any problems at all
22 understanding or speaking the English language?

23 **INMATE NGO:** No, I don't, Sir.

24 **PRESIDING COMMISSIONER ANGELE:** Not even
25 technical words?

26 **INMATE NGO:** Maybe if you use court lingo,
27 you know, then I might have a problem.

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1 **PRESIDING COMMISSIONER ANGELE:** Your
2 attorney can probably help you with that. So you
3 have no problem at all ---

4 **INMATE NGO:** No problem.

5 **PRESIDING COMMISSIONER ANGELE:** All right.
6 I noticed that you signed BPT form 1073 on January
7 the 18th, of this year indicating that you do not
8 have a disability as defined under the Americans
9 with Disabilities Act, is that true?

10 **INMATE NGO:** Yes, it is.

11 **PRESIDING COMMISSIONER ANGELE:** And you need
12 no accommodation, correct?

13 **INMATE NGO:** Pardon?

14 **PRESIDING COMMISSIONER ANGELE:** You need no
15 accommodation?

16 **INMATE NGO:** No.

17 **PRESIDING COMMISSIONER ANGELE:** You will
18 receive a copy of our written tentative decision
19 today. That decision becomes final within 120
20 days. You'll then receive a copy of the decision
21 and a copy of the transcript and you'll have 90
22 days from the effective date to appeal if you so
23 desire. You are not required to discuss your
24 offense with us. You are not required to admit
25 your offense. However, this Panel does accept as
26 true the findings of the court. Do you understand
27 what that means?

1 **INMATE NGO:** The findings of the court?

2 **PRESIDING COMMISSIONER ANGELE:** We accept as
3 true the findings of the court. Do you understand
4 what that means?

5 **INMATE NGO:** What the court found?

6 **PRESIDING COMMISSIONER ANGELE:** Yes.

7 **INMATE NGO:** Yes.

8 **PRESIDING COMMISSIONER ANGELE:** In other
9 words, we accept that as being true.

10 **INMATE NGO:** Yes, it is.

11 **PRESIDING COMMISSIONER ANGELE:** Okay. Any
12 confidential material to be used today,
13 Commissioner Rodriguez?

14 **DEPUTY COMMISSIONER RODRIGUEZ:** There will
15 be none used today, Sir.

16 **PRESIDING COMMISSIONER ANGELE:** I have
17 passed the hearing checklist marked exhibit one
18 both to your attorney and the District Attorney to
19 ensure that we're all operating off the same set
20 of documents. Mr. Laird, do you have those
21 documents?

22 **DEPUTY DISTRICT ATTORNEY LAIRD:** Yes, Sir.

23 **PRESIDING COMMISSIONER ANGELE:** Okay, do you
24 have those documents, Ms. Fox?

25 **ATTORNEY FOX:** Yes, I do.

26 **PRESIDING COMMISSIONER ANGELE:** Thank you.

27 **ATTORNEY FOX:** You're welcome.

1 **PRESIDING COMMISSIONER ANGELE:** Any
2 additional documents to submit?

3 **ATTORNEY FOX:** I don't believe so. However,
4 if we can't find certain things in the Central
5 file then I would like to present what we do have.
6 But I'm assuming that we're going to find them
7 all. I do have two photographs, however, of
8 Mr. Ngo's family.

9 **PRESIDING COMMISSIONER ANGELE:** Will the
10 inmate be speaking with us today?

11 **ATTORNEY FOX:** Yes, he will.

12 **PRESIDING COMMISSIONER ANGELE:** Mr. Ngo, if
13 you'd please raise your right hand to be sworn.
14 Do you solemnly swear or affirm that the testimony
15 you give at today's hearing will be the truth, the
16 whole truth, and nothing but the truth?

17 **INMATE NGO:** Yes, I do.

18 **PRESIDING COMMISSIONER ANGELE:** If there is
19 no objection, Ms. Fox, I'm going to read into the
20 record the Statement of Facts taking it from the
21 probation officer's report, page three, line 15 to
22 page four, line six.

23 **ATTORNEY FOX:** I usually object to the use
24 of the probation officer's report because it is
25 based on hearsay to the extent that there are
26 statements attributed to my client in that, I
27 think they could be admitted for prior

10

1 inconsistent or consistent statements.

2 **PRESIDING COMMISSIONER ANGELE:** You said you
3 usually do or you are?

4 **ATTORNEY FOX:** No, I will.

5 **PRESIDING COMMISSIONER ANGELE:** And what
6 would you like us to use?

7 **ATTORNEY FOX:** Either the trial transcript
8 or the findings of any court of appeals that would
9 be based on the sworn testimony presented in
10 trial.

11 **PRESIDING COMMISSIONER ANGELE:** Okay, well I
12 have neither.

13 **ATTORNEY FOX:** Well, that's not our fault.

14 **PRESIDING COMMISSIONER ANGELE:** Not our
15 fault neither, so I'll overrule that objection
16 also.

17 **ATTORNEY FOX:** Then the risk we run is that
18 we're going to have a Statement of Facts that's
19 based on uncorroborated hearsay, which in many
20 cases is just based on the police report, which is
21 not from testimony of percipient witnesses. And
22 also from the District Attorney's office many
23 times the probation office uses their file to come
24 to their statements. Perhaps you can read the
25 Statement of Facts and then ask Mr. Ngo if he has
26 any comments, but I do have a standing hearsay
27 objection for non-corroborated statements.

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1 **DEPUTY DISTRICT ATTORNEY LAIRD:** Mr. Angele,
2 if I may ---

3 **PRESIDING COMMISSIONER ANGELE:** Yes.

4 **DEPUTY DISTRICT ATTORNEY LAIRD:** Is it
5 possible, I do note that this went to trial, the
6 jury had found the defendant guilty of murder in
7 the first degree. However, in exchange for a plea
8 agreement whereby the defendant would admit second
9 degree murder, he got that deal in exchange for
10 getting a 15 to life sentence with a one-year
11 vicarious arm enhancement for a total of 16 years
12 to life. And he agreed to suspend any, or not to
13 seek any appeal of the matter and that's why there
14 would be no court of appeal record on this case in
15 that he agreed to extinguish all appellate rights
16 (inaudible).

17 **PRESIDING COMMISSIONER ANGELE:** Well, once
18 again, I'm going to overrule your objection and
19 we'll go ahead and incorporate by reference, or
20 excuse me incorporate by reading into the record
21 the probation officer's report, page three, line
22 15, page four, line six. September 18th, 1992, 15
23 year old Angel Gonzales was beaten and stabbed to
24 death at a Fullerton High School as she was
25 walking home after school. As a result of a
26 police investigation, it was learned that earlier
27 in the day the victim, a member of the Fullerton

12

1 Tokerstown, that's T-O-K-E-R-S-town, a Latin gang,
2 and members of the Asian gang, Fullerton Boyz,
3 B-O-Y-Z, were at a McDonald's restaurant near the
4 high school. The victim and the name of No
5 Muhamed, that's N-O, first name, Muhamed,
6 M-U-H-A-M-E-D, had a confrontation with each
7 claiming their respective gang affiliations.
8 After this non-physical altercation, the group of
9 Asians, which at the time included the defendant,
10 and for the sake of the interpreter, defendant is
11 synonymous with Mr. Ngo, obtained a firearm. And
12 defendant and his co-defendants then returned to
13 the school where they waited for Angel Gonzales.
14 As he was walking home he was attacked and beaten.
15 During the physical altercation, the victim was
16 shot one time in the middle of the back by one of
17 the defendants who was later identified as Usumang
18 Muhamed, first name U-S-U-M-A-N-G, last name,
19 M-U-H-A-M-E-D. The group of five defendants fled
20 the area after the shooting. Angel Gonzales died
21 at the scene as a result of a gunshot wound. The
22 defendant, along with Jimmy Dao, D-A-O, and Asat
23 Cham, first name A-S-A-T, last name C-H-A-M, fled
24 to the state of Washington. They were
25 subsequently arrested there and the murder weapon,
26 a stolen 22-caliber handgun was recovered in the
27 vehicle. Another statement that I want to add to

85

13

1 this was that the vehicle used the day of the
2 shooting apparently was burned prior to them
3 leaving the state. Is that what happened,
4 Mr. Ngo?

5 INMATE NGO: Yes, it was.

6 PRESIDING COMMISSIONER ANGELE: Are there
7 any changes in this story that I just read that
8 you want to bring up?

9 INMATE NGO: No, Sir.

10 PRESIDING COMMISSIONER ANGELE: So this is
11 exactly what happened?

12 INMATE NGO: Basically, yes.

13 PRESIDING COMMISSIONER ANGELE: Basically.

14 INMATE NGO: Yes.

15 PRESIDING COMMISSIONER ANGELE: Okay. You
16 were involved in beating this individual, correct?

17 INMATE NGO: Yes, we got in a fight,
18 fistfight.

19 PRESIDING COMMISSIONER ANGELE: Well, it was
20 more than a fistfight, he was jumped by a gang of
21 people, right?

22 INMATE NGO: Yes, he was.

23 PRESIDING COMMISSIONER ANGELE: Okay. Now
24 if I'm not mistaken you were the one that handed
25 this gentleman the gun?

26 INMATE NGO: No, that's ---

27 PRESIDING COMMISSIONER ANGELE: Is that

14

1 true?

2 INMATE NGO: No, that's not true.

3 PRESIDING COMMISSIONER ANGELE: You didn't
4 find it on the floor under the seat of the
5 vehicle?

6 INMATE NGO: In my statement in court was I
7 saw under the car seat.

8 PRESIDING COMMISSIONER ANGELE: Okay.

9 INMATE NGO: And after that it was, my crime
10 partner had it on him without my knowledge.

11 PRESIDING COMMISSIONER ANGELE: So you
12 didn't touch the gun at all?

13 INMATE NGO: No, I didn't, Sir.

14 PRESIDING COMMISSIONER ANGELE: Okay. How
15 many of them, were there four of you or five?

16 INMATE NGO: Five.

17 PRESIDING COMMISSIONER ANGELE: And did you
18 know Mr. Gonzales at all?

19 INMATE NGO: No, Sir.

20 PRESIDING COMMISSIONER ANGELE: But you had
21 left and were living in Los Angeles County at the
22 time?

23 INMATE NGO: Yes, I was, Sir.

24 PRESIDING COMMISSIONER ANGELE: And had
25 become a part of a different gang.

26 INMATE NGO: It wasn't --- I just known
27 them, associated with them.

15

1 **PRESIDING COMMISSIONER ANGELE:** The Tiger
2 Mafia?

3 **INMATE NGO:** Yes.

4 **PRESIDING COMMISSIONER ANGELE:** Did you
5 belong to them or did you just associate?

6 **INMATE NGO:** Associate.

7 **PRESIDING COMMISSIONER ANGELE:** Okay, but
8 you were a member of the Fullerton Boyz, right?

9 **INMATE NGO:** Yes, I was.

10 **PRESIDING COMMISSIONER ANGELE:** Did these
11 gangs know each other?

12 **INMATE NGO:** No.

13 **PRESIDING COMMISSIONER ANGELE:** You were 19
14 years old at the time?

15 **INMATE NGO:** Yes, Sir.

16 **PRESIDING COMMISSIONER ANGELE:** How do you
17 feel about what happened?

18 **INMATE NGO:** I'm sorry.

19 **PRESIDING COMMISSIONER ANGELE:** All right,
20 as far as I can see you had no criminal record
21 prior to this. You had some arrests as an adult,
22 but nothing as a juvenile. You had an intact
23 family?

24 **INMATE NGO:** Pardon me?

25 **PRESIDING COMMISSIONER ANGELE:** You had an
26 intact family.

27 **INMATE NGO:** Yes, I did, Sir.

16

1 **PRESIDING COMMISSIONER ANGELE:** You just got
2 --- I mean after you had left there, I guess they
3 called you up and said we got something we got to
4 take care of.

5 **INMATE NGO:** No. Actually what happened
6 that day was, you know, we came there, they called
7 me up, you know, I came down to visit them. I
8 said I'm just glad that you called me, you know,
9 it wasn't nothing planned or nothing. It just
10 happened.

11 **PRESIDING COMMISSIONER ANGELE:** Any reason
12 why you guys kept the gun?

13 **INMATE NGO:** The gun wasn't even in the car
14 when I first was there when they picked me up; it
15 was never there. The first time I saw it was
16 after I got back into the car.

17 **PRESIDING COMMISSIONER ANGELE:** I
18 understand. I'm talking about in Washington. The
19 murder gun was found in the car?

20 **INMATE NGO:** Yes, we kept it. We never
21 disposed of it.

22 **PRESIDING COMMISSIONER ANGELE:** I'll go over
23 your criminal activity. You had nothing as a
24 juvenile. As an adult you were arrested in 1992,
25 March, San Gabriel Police Department, possession
26 of rock cocaine. What was that about?

27 **INMATE NGO:** I experimented with cocaine,

17

1 rock cocaine.

2 PRESIDING COMMISSIONER ANGELE: You were
3 experimenting with it?

4 INMATE NGO: Yes.

5 PRESIDING COMMISSIONER ANGELE: Were you
6 dealing it at all?

7 INMATE NGO: No.

8 PRESIDING COMMISSIONER ANGELE: Did you
9 experiment with it?

10 INMATE NGO: Yes.

11 PRESIDING COMMISSIONER ANGELE: And?

12 INMATE NGO: I got busted the first time I
13 bought it. I was just driving home at that point
14 and police pulled me over and he searched the
15 vehicle and found --- I gave him permission to
16 search the vehicle, he found the rock cocaine.
17 They gave me diversion for it.

18 PRESIDING COMMISSIONER ANGELE: How long
19 after you bought it did they stop you?

20 INMATE NGO: About what, 15 minutes. I was
21 just going home by then.

22 PRESIDING COMMISSIONER ANGELE: Was it a
23 sting do you know?

24 INMATE NGO: I don't know.

25 PRESIDING COMMISSIONER ANGELE: Do you know
26 what that means?

27 INMATE NGO: Yeah, yes I do. It was not a

18

1 sting. The cop just saw me and he pulled me over.

2 **PRESIDING COMMISSIONER ANGELE:** Pulled you
3 over for what?

4 **INMATE NGO:** I don't know.

5 **PRESIDING COMMISSIONER ANGELE:** Okay, he
6 never indicated to you that he saw you make the
7 purchase?

8 **INMATE NGO:** No.

9 **PRESIDING COMMISSIONER ANGELE:** Had you
10 tried it before?

11 **INMATE NGO:** Yes.

12 **PRESIDING COMMISSIONER ANGELE:** It does
13 indicate that you were diverted, but you were also
14 arrested apparently in Olympia, Washington,
15 possession of stolen property. But apparently
16 they dismissed it and I think they probably
17 dismissed it because of the arrest and the murder,
18 correct?

19 **INMATE NGO:** I think so.

20 **PRESIDING COMMISSIONER ANGELE:** Okay. What
21 was the stolen property?

22 **INMATE NGO:** From what my understanding is
23 the gun that the murder weapon came from was
24 (inaudible) Washington.

25 **PRESIDING COMMISSIONER ANGELE:** Okay.

26 **INMATE NGO:** So I was never even in
27 Washington until after the fact.

1 **PRESIDING COMMISSIONER ANGELE:** Which one of
2 your crime partners was from Washington?

3 **INMATE NGO:** Asat Cham.

4 **ATTORNEY FOX:** Do you want to spell that? I
5 think for the ---

6 **INMATE NGO:** A-S-A-T, C-H-A-M.

7 **PRESIDING COMMISSIONER ANGELE:** I think we
8 already went through that one time. Now, okay, it
9 would indicate --- I want to make sure I have the
10 record straight on the names also. Were there two
11 Muhameds there?

12 **INMATE NGO:** Yes.

13 **PRESIDING COMMISSIONER ANGELE:** Okay,
14 because I had two spellings of each name. It
15 would probably be pretty reasonable to assume that
16 Cham, Mr. Cham ---

17 **INMATE NGO:** Yes.

18 **PRESIDING COMMISSIONER ANGELE:** Probably
19 brought the gun from Washington when he came down
20 here. Just assuming since it was taken from
21 Washington State.

22 **INMATE NGO:** Yes, Sir.

23 **PRESIDING COMMISSIONER ANGELE:** And that's
24 where you wound up going back. You were born in
25 Vietnam on May the 18th, 1973. You (inaudible)
26 the United States since 1979, graduated Fullerton
27 High School. And it says here you attended

1 Fullerton Community College and Pasadena City
2 College. You completed 10 units and your major
3 was Business. You worked as a telemarketer.
4 Who'd you work for as a telemarketer?

5 **INMATE NGO:** It's for like a real estate
6 place, (inaudible) insurance, telemarketing. Try
7 to get them to go to seminar.

8 **PRESIDING COMMISSIONER ANGELE:** You worked
9 at your family liquor store and was living with
10 your parents when this occurred?

11 **INMATE NGO:** Yes, Sir.

12 **PRESIDING COMMISSIONER ANGELE:** I want to
13 make sure I get honest answers from you because
14 I've seen two places now that indicates that you
15 were a member of the Tiger Mafia.

16 **INMATE NGO:** Tiger Mafia is who I associated
17 with. That's when they asked me (inaudible) my
18 tattoo was on there, TM. I was on bulletin
19 boards.

20 **PRESIDING COMMISSIONER ANGELE:** I
21 understand.

22 **INMATE NGO:** They ask me TM, that's why I
23 say Tiger Mafia, because you know, I was
24 associated with them.

25 **PRESIDING COMMISSIONER ANGELE:** But you left
26 Fullerton.

27 **INMATE NGO:** Yes.

1 **PRESIDING COMMISSIONER ANGELE:** And you
2 moved to Los Angeles area.

3 **INMATE NGO:** Yes.

4 **PRESIDING COMMISSIONER ANGELE:** And became
5 affiliated one way or the other with the Tiger
6 Mafia.

7 **INMATE NGO:** When I moved to Orange County,
8 that's when ---

9 **PRESIDING COMMISSIONER ANGELE:** Orange
10 County, I'm sorry.

11 **INMATE NGO:** Associated with Fullerton Boyz.
12 In LA I was with the Tiger Mafia.

13 **PRESIDING COMMISSIONER ANGELE:** Were you in
14 LA before you went to Orange County?

15 **INMATE NGO:** Yes, Sir.

16 **PRESIDING COMMISSIONER ANGELE:** Okay. Now
17 you said you were associated with them. You were
18 associated with them enough to have a tattoo on
19 your arm.

20 **INMATE NGO:** It's not --- I can have ---
21 it's taken off already.

22 **PRESIDING COMMISSIONER ANGELE:** Well, it was
23 taken off, it was on at the time. It still said
24 TM.

25 **INMATE NGO:** Yes.

26 **PRESIDING COMMISSIONER ANGELE:** Which would
27 indicate to me that you were a member. I mean,

1 let's be honest, were you or weren't you?

2 **INMATE NGO:** To tell you the truth, Sir ---

3 **PRESIDING COMMISSIONER ANGELE:** Yeah, that's
4 what I want to hear, the truth.

5 **INMATE NGO:** It's just a made up name,
6 bottom line. I was Fullerton Boyz, I didn't want
7 to admit that I was in a gang when I was arrested
8 and they just saw the TM, it's my ex-girlfriend's
9 name, Teresa May, so --- it was just a made up
10 name so, I just tried to throw them off.

11 **PRESIDING COMMISSIONER ANGELE:** Well, we're
12 looking for honesty and the reason I kept on
13 pushing you is I never heard of Tiger Mafia.
14 Truthfulness is important to us, understand that.

15 **INMATE NGO:** Yes, Sir.

16 **PRESIDING COMMISSIONER ANGELE:** But you took
17 her initials off your arm?

18 **INMATE NGO:** No, I mean --- I tried to put
19 it on myself as (inaudible), it never came out
20 anyway, it faded.

21 **PRESIDING COMMISSIONER ANGELE:** You've never
22 been married.

23 **INMATE NGO:** No.

24 **PRESIDING COMMISSIONER ANGELE:** And you've
25 got no children, correct? Never been in the
26 military. You indicate you only tried cocaine
27 once.

23

1 INMATE NGO: Yes.

2 PRESIDING COMMISSIONER ANGELE: Okay. Have
3 you experimented with any other drugs?

4 INMATE NGO: No.

5 PRESIDING COMMISSIONER ANGELE: Alcohol?

6 INMATE NGO: I'm allergic to alcohol.

7 PRESIDING COMMISSIONER ANGELE: That's
8 probably good. Tried nothing else, marijuana,
9 nothing?

10 INMATE NGO: I don't like drugs, not no
11 more. (Inaudible) --- never mind.

12 PRESIDING COMMISSIONER ANGELE: No, tell me.

13 INMATE NGO: I mean you can test me everyday
14 and I'll be clean.

15 PRESIDING COMMISSIONER ANGELE: I believe
16 you. You haven't given me a reason not to. Okay,
17 we do have some letters that we received on your
18 behalf. I'd like to try to go over some of these.
19 We received these at a late hour, but I think
20 (inaudible) because I think it's very important.
21 One letter is from, you've got to help me with the
22 names again, okay.

23 INMATE NGO: Yes, Sir.

24 PRESIDING COMMISSIONER ANGELE: This is from
25 your sister, Tran?

26 INMATE NGO: Which one?

27 PRESIDING COMMISSIONER ANGELE: Tran Ngo.

1 INMATE NGO: Tan.

2 PRESIDING COMMISSIONER ANGELE: Tan Ngo.

3 She indicated that the family will support you any
4 way they can, that her husband has a job for you
5 in his store.

6 INMATE NGO: Yeah.

7 PRESIDING COMMISSIONER ANGELE: And that
8 your mother has a job for you in her store. Then
9 we have one from a Donald Rubridc, R-U-B-R-I-D-C,
10 Orange County Public Defender, explains the case
11 where you were tried and is in support of your
12 release also. Fong Ngo is your mother?

13 INMATE NGO: Fong (inaudible).

14 PRESIDING COMMISSIONER ANGELE: Okay. She
15 offers support in any way possible. And then we
16 have Calvin Ung, U-N-G, your uncle.

17 INMATE NGO: Yes.

18 PRESIDING COMMISSIONER ANGELE: Who has a
19 job for you in his restaurant.

20 INMATE NGO: Yes.

21 ATTORNEY FOX: Have you gone over the letter
22 from his mother, I'm sorry.

23 PRESIDING COMMISSIONER ANGELE: Uh-hmm,
24 yeah.

25 ATTORNEY FOX: Okay.

26 PRESIDING COMMISSIONER ANGELE: Yeah.

27 INMATE NGO: I have one from my brother,

1 too.

2 PRESIDING COMMISSIONER ANGELE: That's
3 Calvin?

4 INMATE NGO: That's my uncle.

5 PRESIDING COMMISSIONER ANGELE: Your uncle,
6 okay. I'm sorry Calvin is the one who has a
7 restaurant job for you.

8 INMATE NGO: Yes, Sir.

9 PRESIDING COMMISSIONER ANGELE: I don't have
10 --- I've got your mother.

11 ATTORNEY FOX: We may have a copy.

12 PRESIDING COMMISSIONER ANGELE: Your sister.
13 I'm sorry, is it Raymond? Raymond?

14 INMATE NGO: Raymond Seto's my new
15 brother-in-law.

16 PRESIDING COMMISSIONER ANGELE: Is that the
17 one you're talking about?

18 INMATE NGO: No, my older brother.

19 PRESIDING COMMISSIONER ANGELE: Okay, I do
20 have one here from Raymond Seto, S-E-T-O, he's
21 your brother-in-law. He's known you since 1992.

22 ATTORNEY FOX: There are two separate
23 letters from Calvin Ung. One bears the date of
24 January 30th, 2001. A more recent one is dated
25 April 6th of 2002. I believe that's the one that
26 was referred to, the later of the two.

27 PRESIDING COMMISSIONER ANGELE: I have the

1 2002 letter here. I don't have it here. Who is
2 Chi Phong Ngo, your older brother?

3 **INMATE NGO:** Chi Phong Ngo.

4 **PRESIDING COMMISSIONER ANGELE:** Chi?

5 **INMATE NGO:** C-H-I, Phong Ngo.

6 **PRESIDING COMMISSIONER ANGELE:** This says
7 Sieu.

8 **INMATE NGO:** That's me.

9 **PRESIDING COMMISSIONER ANGELE:** Okay, I'm
10 sorry. He's your older brother. I've got it.
11 Okay. First name is Chi, C-H-I. Middle name
12 Phong, P-H-O-N-G. Last name, N-G-O. Writing in
13 support of my brother. He's offering a job at a
14 convenience store which is in Anaheim.

15 **INMATE NGO:** Yes, Sir.

16 **PRESIDING COMMISSIONER ANGELE:** They all
17 believe in you and are willing to support you.
18 There's another letter from Duc Phong Ngo. D-U-C
19 is the first name. Middle, P-H-O-N-G. Last name
20 N-G-O. Younger brother, writing a letter of
21 support. I'll help my brother financially and in
22 any way that he needs. Like to see you get a
23 second chance, make a difference in society with
24 all the training you've had while in prison. I'll
25 go back to the letter from Raymond Seto. It's a
26 letter of support asking that you be given a
27 second chance. Talks about your mother and her

27

1 work at the liquor store. How he believes you
2 have the ability to become a law-abiding citizen.
3 And this is a letter in support of release. Have
4 we covered them all now? There's another one?

5 **INMATE NGO:** No, just one from my older
6 sister?

7 **ATTORNEY FOX:** Which I'm passing over.

8 **PRESIDING COMMISSIONER ANGELE:** This is from
9 Lan Lau.

10 **INMATE NGO:** Lan.

11 **PRESIDING COMMISSIONER ANGELE:** First name
12 is Lan, L-A-N. Last name is Lau, L-A-U, who is
13 inmate's sister. She believes that the inmate
14 deserves a second chance to prove himself in the
15 community. They offer you housing, financial
16 support. These include a place to stay, food,
17 clothing, and education. They reside in Alhambra
18 in Los Angeles County, okay. Anything else?

19 **INMATE NGO:** That should be it.

20 **ATTORNEY FOX:** Thank you.

21 **PRESIDING COMMISSIONER ANGELE:** All right,
22 we sent out what we call 3042 notices. Those are
23 notices that go to agencies that have a direct
24 interest in your case. I have received a reply
25 from the District Attorney's office, from the
26 County of Orange. However, there's a
27 representative here today from that office so

1 we'll have him make a statement when that time
2 comes. And we'll go to post-conviction factors
3 please, Commissioner Rodriguez.

4 **DEPUTY COMMISSIONER RODRIGUEZ:** How do you
5 pronounce your name again?

6 **INMATE NGO:** Just say "no."

7 **DEPUTY COMMISSIONER RODRIGUEZ:** No?

8 **INMATE NGO:** Yeah, it's easiest.

9 **DEPUTY COMMISSIONER RODRIGUEZ:** All right,
10 inmate Ngo, the purpose of, during the first
11 portion of this reading I'll be addressing what
12 you've done since you've been received in the
13 Department of Corrections, which will then bring
14 us to the present. This will establish a base for
15 future Board appearances should you not receive a
16 date today. If there's anything that I leave out
17 during the portion of this reading, either you or
18 your attorney can address it when I'm done, all
19 right?

20 **INMATE NGO:** Yes, Sir.

21 **DEPUTY COMMISSIONER RODRIGUEZ:** All right.
22 You were received in the Department of Corrections
23 on February 1st, 1994, at RJ Donovan Reception
24 Center. From there you transferred on March 17th,
25 1994, to Centinella State Prison. From there you
26 transferred on May 16th, 1995, to Calipatria State
27 Prison, excuse me, California State Prison,

1 Lancaster, and that was a non-adverse transfer.
2 And then you subsequently transferred here to
3 California (sic) Training Facility in Soledad,
4 also a non-adverse transfer on December 16th,
5 1998. Your current classification score is zero.
6 You're currently housed as a Level II inmate on a
7 life override. Your custody is Medium A. You're
8 still in culinary warehouse?

9 **INMATE NGO:** Yes, Sir.

10 **DEPUTY COMMISSIONER RODRIGUEZ:** And I note
11 that you have exceptional to excellent work
12 reports. You did complete your high school. You
13 have completed vocation auto upholstery and that
14 was on April 3rd, 1997. What is, is vocation
15 automotive refinishing a separate course?

16 **INMATE NGO:** Yes, that's a separate course.
17 That's auto paint.

18 **DEPUTY COMMISSIONER RODRIGUEZ:** Okay, and
19 you did complete that one and that was in
20 September 1997. So you've completed two
21 vocations.

22 **INMATE NGO:** Yes, Sir.

23 **DEPUTY COMMISSIONER RODRIGUEZ:** You've been
24 an active participant in the NA program as
25 evidenced by your most recent chronos. You've
26 also completed the Key to Fatherhood, December of
27 2000. You completed a course in the Cause,

30

1 Prevention, and Treatment of both Tuberculosis and
2 Hepatitis and that was December 1999. And also
3 you've participated in a Muslim group course,
4 Salesmanship II. And what do you do in that?

5 **INMATE NGO:** On the Muslim fatherhood and
6 salesmanship, you learn how to be a parent if
7 someday by circumstance to have my kids and stuff.
8 You learn to take care of your own kids and I'll
9 be a good, how a father should be.

10 **DEPUTY COMMISSIONER RODRIGUEZ:** Have you
11 gone to any anger management courses?

12 **INMATE NGO:** I try. The only one try to
13 enroll right now, try to get into is Impact.

14 **DEPUTY COMMISSIONER RODRIGUEZ:** Yeah, the
15 impact program, which is an excellent program
16 here. Captain Gara runs that program.

17 **INMATE NGO:** Captain Gara's running it.

18 **DEPUTY COMMISSIONER RODRIGUEZ:** Exactly.

19 **INMATE NGO:** And it's been very difficult to
20 get in.

21 **DEPUTY COMMISSIONER RODRIGUEZ:** But you've
22 been here for a long, going on ---

23 **INMATE NGO:** I have tried since last year,
24 sir.

25 **DEPUTY COMMISSIONER RODRIGUEZ:** Almost five
26 years, four years actually.

27 **INMATE NGO:** Yeah.

31

1 DEPUTY COMMISSIONER RODRIGUEZ: Yeah.

2 INMATE NGO: They just start this program
3 recently.

4 DEPUTY COMMISSIONER RODRIGUEZ: It's a very
5 good program. I strongly urge you to try to get
6 in and at least keep your name active on that.

7 INMATE NGO: I will.

8 DEPUTY COMMISSIONER RODRIGUEZ: Do you study
9 your 12-steps?

10 INMATE NGO: Not all of them because I have
11 to say I'm a Buddhist and some steps I can't
12 really apply to it. There's only four step, maybe
13 step four, step eight.

14 DEPUTY COMMISSIONER RODRIGUEZ: What is step
15 number eight to you?

16 INMATE NGO: Making a list of all persons
17 harmed.

18 DEPUTY COMMISSIONER RODRIGUEZ: Who would be
19 at the top of that list?

20 INMATE NGO: All of the families, victim
21 family and my family.

22 DEPUTY COMMISSIONER RODRIGUEZ: Now you
23 stated, I believe somewhere we read in the reports
24 that you furnished the gun. You say you didn't?

25 INMATE NGO: No (inaudible).

26 ATTORNEY FOX: Could you tell us where you
27 saw that because I'd like to correct it as well.

1 **DEPUTY COMMISSIONER RODRIGUEZ:** I believe
2 that's in the probation officer's report. Did you
3 quote that, Commissioner Angele?

4 **PRESIDING COMMISSIONER ANGELE:** No.

5 **ATTORNEY FOX:** I don't believe it's stated
6 there.

7 **DEPUTY COMMISSIONER RODRIGUEZ:** Okay, I was
8 looking at the prisoner's version. And what I'm
9 looking at is the current Board report, April
10 2002, and that's on the first page, (inaudible)
11 addressing that --- You explained that they had
12 the gun for protection in case someone else had to
13 have a weapon, correct?

14 **ATTORNEY FOX:** Once again ---

15 **DEPUTY COMMISSIONER RODRIGUEZ:** Excuse me,
16 counsel, I'll let you address that. Ngo stated
17 that he did not see the gun until he was in the
18 vehicle, it was located under the passenger seat,
19 correct?

20 **INMATE NGO:** (Inaudible.)

21 **DEPUTY COMMISSIONER RODRIGUEZ:** And that's
22 the story you're staying ---

23 **INMATE NGO:** It's a true story.

24 **DEPUTY COMMISSIONER RODRIGUEZ:** And he's
25 corrected and we're satisfied ---

26 **ATTORNEY FOX:** And I believe it's
27 consistently stated that way throughout the

1 probation report as well, and the defendant's
2 statement and also a statement that was given by
3 one of the detectives involved in the
4 investigation.

5 **DEPUTY COMMISSIONER RODRIGUEZ:** All right.
6 Do you agree with everything I've read up to this
7 point, as far as your program?

8 **INMATE NGO:** I still have a, I have a
9 certificate in STD and AIDS too.

10 **DEPUTY COMMISSIONER RODRIGUEZ:** Okay, I
11 don't think I have copies of those. Do you have
12 copies of them?

13 **INMATE NGO:** Yes, Sir.

14 **DEPUTY COMMISSIONER RODRIGUEZ:** I went
15 through all the certificates you have here that
16 they provided us, which I confirmed, which are in
17 the ---

18 **INMATE NGO:** Hepatitis and tuberculosis.

19 **DEPUTY COMMISSIONER RODRIGUEZ:** Well I
20 addressed those already.

21 **INMATE NGO:** Sexually transmitted disease---

22 **DEPUTY COMMISSIONER RODRIGUEZ:** I addressed
23 that too. That was in 1999, correct, right there
24 at the bottom?

25 **ATTORNEY FOX:** Well, one is in 2000, the
26 STD's.

27 **DEPUTY COMMISSIONER RODRIGUEZ:** Okay. That

1 was the sexually transmitted disease, right.

2 **ATTORNEY FOX:** And on the back there's
3 another one in 2000.

4 **DEPUTY COMMISSIONER RODRIGUEZ:** Right, and
5 then HIV. I may have said the wrong date, but I
6 did address both these certificates.

7 **ATTORNEY FOX:** The other two, tuberculosis
8 and hepatitis were (inaudible).

9 **DEPUTY COMMISSIONER RODRIGUEZ:** Correct,
10 okay. So do you agree with everything else?

11 **INMATE NGO:** Yes, Sir.

12 **DEPUTY COMMISSIONER RODRIGUEZ:** Okay. As
13 far as disciplinary history, you have received no
14 CDC 115's, either administrative or serious since
15 reception. And you've only received a total of
16 two 128(a) counseling chronos. The first one was
17 April 1st, 1997, for failure to respond to medical
18 ducat. And then the last one was on February
19 11th, 2000, for covering your windows with a
20 towel. Trying to keep the light out, huh?

21 **INMATE NGO:** Actually, cold Sir.

22 **DEPUTY COMMISSIONER RODRIGUEZ:** Cold. In
23 going through your counselor's recommendation,
24 that's from the current Board report dated April
25 2002. The author of this report is the initial M.
26 Rubio, R-U-B-I-O, Correctional Counselor I here at
27 Soledad state prison. Going to page three under

35

1 the heading of Summary, it says considering the
2 commitment offense, minimal prior arrest record
3 and prison adjustment, the writer believes Ngo
4 would probably pose a moderate to low degree of
5 threat to the public at this time if released from
6 prison. Going to the psych report, there's two
7 reports I'll be addressing. The first one is
8 dated December 27th, 1996. It's a three page,
9 three. It's completed at California State Prison,
10 Lancaster. The author of that report is the
11 initial C. Schroeder, S-C-H-R-O-E-D-E-R, Staff
12 Psychologist. I'm not going to read that report
13 in it's entirety, but I will address areas of that
14 report. Going to page two, under Present
15 Condition, it says the remorse he expresses is
16 sincere. He is synonymous with inmate Ngo. He
17 shows much (inaudible) and self-incrimination for
18 the crime. In hindsight he sees that he perhaps
19 could have stopped the incident and now has great
20 empathy and remorse for the family of the victim.
21 Under Mental Status and Diagnosis, Axis I: no
22 diagnosis or condition. Axis II: no diagnosis.
23 Axis III: none. Going to page three, Axis IV:
24 psychosocial stressors, incarceration. Axis V:
25 Global Assessment of Functioning score, that's
26 your GAF score is 75. Under Conclusions and
27 Recommendations, Mr. Ngo's history of depression

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1 and suicide attempts may have contributed to his
2 state of mind and poor judgment during the time of
3 the crime. There are no records of any mental
4 health treatment during incarceration and Mr. Ngo
5 is no longer depressed. Going to the last psych
6 report, and that is a seven-page report completed
7 here at Soledad state prison. The date of that
8 report is April, excuse me, January 23rd, 2002.
9 The author of that report is the initial C.
10 Saindon, capital-S-A-I-N-D-O-N, Staff
11 Psychologist. Under, let's see, going to page
12 four, under heading Current Diagnostic
13 Impressions, Axis I: no contributory clinical
14 disorder. Axis II: deferred. Axis III: no
15 contributory physical disorder. Axis IV:
16 long-term incarceration. Axis V: Global
17 Assessment of Functioning score, your GAF score is
18 90, noting that it had gone up considerably from
19 75 from the first report that I addressed in 1996.
20 Ninety is a very good score. Going to page five
21 under Assessment of Dangerousness, based upon his
22 complete lack of disciplinary actions while
23 incarcerated, his insight into the negative
24 aspects of gang involvement and his remorse for
25 his actions, his violence potential within a
26 controlled setting is estimated to be below
27 average relative to this Level II inmate

37

1 population. If released to the community, his
2 violence potential is estimated to be less than
3 the average citizen in the community given his
4 insight, his demonstrated ability to stay out of
5 trouble, his successful development of plans upon
6 release, and the support of his family. At this
7 time, I'll return to the Chair.

8 **PRESIDING COMMISSIONER ANGELE:** Thank you.
9 Do you know what the term mad dogging means?

10 **INMATE NGO:** Yes, Sir.

11 **PRESIDING COMMISSIONER ANGELE:** What does
12 that mean to you?

13 **INMATE NGO:** Back then it was dirty looks.

14 **PRESIDING COMMISSIONER ANGELE:** You
15 indicated that you first saw the gun in the car.

16 **INMATE NGO:** Yes, Sir.

17 **PRESIDING COMMISSIONER ANGELE:** And then you
18 were driving around and just happened come upon
19 Mr. Gonzales.

20 **INMATE NGO:** No, Sir. We met Mr. Gonzales
21 at McDonald's first.

22 **PRESIDING COMMISSIONER ANGELE:** I understand
23 that. I'm talking about the second time.

24 **INMATE NGO:** The second time, what happened
25 was, when we came back me and (inaudible) went to
26 confront Mr. Gonzales and his friend. We were
27 going to get into a fistfight. When the fistfight

1 started, we were fighting one another, we knocked
2 Mr. Gonzales down. And after that, my crime
3 partner came and while we was beating him up
4 (inaudible) Muhamed was hitting him with a gun.
5 Somehow it shot, it went off, the gun went off and
6 shot him. The first round probably missed him,
7 but the second round hit him.

8 **PRESIDING COMMISSIONER ANGELE:** So you were
9 actually looking for him?

10 **INMATE NGO:** Looking for ---

11 **PRESIDING COMMISSIONER ANGELE:**

12 Mr. Gonzales.

13 **INMATE NGO:** Yes, we were looking for him to
14 fight.

15 **PRESIDING COMMISSIONER ANGELE:** Weren't you
16 waiting there for him to get out of school?

17 **INMATE NGO:** We were waiting for him after
18 school.

19 **PRESIDING COMMISSIONER ANGELE:** Okay. Also,
20 you know, a little trouble by some (inaudible)
21 problems. Back in December '90, you had a problem
22 in school where you jumped somebody else. Do you
23 recall that?

24 **INMATE NGO:** It was not a jump. I got in a
25 fight with another individual.

26 **PRESIDING COMMISSIONER ANGELE:** Yeah, but
27 you had three guys with you and they all jumped in

///

1 on it.

2 **INMATE NGO:** Yes, Sir, they were my friends,
3 they back me up.

4 **PRESIDING COMMISSIONER ANGELE:** They backed
5 you up. You against one guy. You knocked him
6 down.

7 **INMATE NGO:** I beat him up, yes, Sir.

8 **PRESIDING COMMISSIONER ANGELE:** And then
9 three guys backed you up and you all jumped him.
10 How do you figure that backing you up, you didn't
11 sound like you needed a back up at all?

12 **INMATE NGO:** I have no control over their
13 actions, Sir.

14 **PRESIDING COMMISSIONER ANGELE:** How about
15 the time you were in a vehicle and found three
16 purses, do you remember that?

17 **INMATE NGO:** No, Sir.

18 **PRESIDING COMMISSIONER ANGELE:** You don't
19 remember that? This is in the POR, page 11, line
20 seven, (inaudible) automobile during a traffic
21 stop three women's purses were found in the
22 vehicle in which (inaudible) Ngo was the sole
23 occupant. Indicated you did not know who they
24 belonged to, that's when they found the rock
25 cocaine.

26 **INMATE NGO:** Oh, that's my mom's car ---

27 **DEPUTY COMMISSIONER RODRIGUEZ:** I'd like to

1 turn the tape over, one moment.

2 [Thereupon, the tape was turned over.]

3 **DEPUTY COMMISSIONER RODRIGUEZ:** Side two,
4 back on record.

5 **PRESIDING COMMISSIONER ANGELE:** So that was
6 your mother's car?

7 **INMATE NGO:** Uh-hmm. It was my mother's car
8 when I was arrested, Sir. If there was a purse,
9 it must belong to my mom.

10 **PRESIDING COMMISSIONER ANGELE:** Okay. Then
11 you indicated the car was searched for no reason.

12 **INMATE NGO:** At first, yes. But when they
13 asked me for consent, I gave it to them.

14 **PRESIDING COMMISSIONER ANGELE:** All right.
15 But you do understand a male driving in a vehicle
16 with three purses in the car would be pretty
17 suspicious to me. I'd think maybe it was a purse-
18 snatcher. (Inaudible) plenty of probable cause.
19 But they asked you ---

20 **INMATE NGO:** Yeah.

21 **PRESIDING COMMISSIONER ANGELE:** And you gave
22 consent and inside one of the purses they found
23 the rock cocaine. I found in a couple of spots
24 the gun was given to one of your crime partners by
25 somebody at an arcade. Do you recall that
26 statement at all?

27 **INMATE NGO:** It was brought up in trial,

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1 Sir, but like I said before, the first time I ever
2 seen the gun was when I got back into the car.

3 **PRESIDING COMMISSIONER ANGELE:** Okay, let me
4 ask you this, did you happen to go to the arcade
5 prior to you first seeing the gun?

6 **INMATE NGO:** Yeah, I was playing arcade, but
7 I went to the restaurant. I told them in court
8 that I was at a restaurant, a Hispanic restaurant
9 eating when this ---

10 **PRESIDING COMMISSIONER ANGELE:** Okay. So
11 can we assume without taking anything out of it
12 that isn't, it's a possibility that somebody did
13 get the gun at the arcade and put it in the car
14 and you just didn't see it.

15 **INMATE NGO:** Very.

16 **PRESIDING COMMISSIONER ANGELE:** What I'm
17 trying to establish is that you were at the arcade
18 before you got in the car and saw the gun?

19 **INMATE NGO:** Yes.

20 **PRESIDING COMMISSIONER ANGELE:** And the
21 first place you saw it was in the car.

22 **INMATE NGO:** Exactly.

23 **PRESIDING COMMISSIONER ANGELE:** All right,
24 any questions, Commissioner Rodriguez?

25 **DEPUTY COMMISSIONER RODRIGUEZ:** None at this
26 time.

27 **PRESIDING COMMISSIONER ANGELE:** Any

1 questions from the District Attorney?

2 **DEPUTY DISTRICT ATTORNEY LAIRD:** Yes, just a
3 few. And I'm referring to the P and S, the
4 Probation and Sentencing report.

5 **PRESIDING COMMISSIONER ANGELE:** One second,
6 (inaudible) you answer the questions. The
7 questions will be asked by the District Attorney
8 through the Panel and your statements are to be
9 directed to this side of the table.

10 **INMATE NGO:** Yes.

11 **DEPUTY DISTRICT ATTORNEY LAIRD:** Would you
12 like me to read what's in the probation report?
13 It's just, it's regarding the trial deputy's
14 statement in the report.

15 **PRESIDING COMMISSIONER ANGELE:** Is it a
16 question or what do you intend to do with it?

17 **DEPUTY DISTRICT ATTORNEY LAIRD:** The
18 question is I want to know if the inmate believes
19 that is an accurate statement, sentence by
20 sentence. And I'm talking about page nine of the
21 Probation and Sentencing report, starting with
22 line 14, that entire paragraph, 14 to 21, which
23 begins with in a telephone conversation with the
24 prosecuting attorney Robin Park. She's the Deputy
25 District Attorney that took the case to trial and
26 tried (inaudible) case. And those are her
27 comments. And I was wondering if they, Mr. Ngo,

1 felt that those were accurate comments, and if
2 they are not accurate, how so.

3 **ATTORNEY FOX:** I think we need to go through
4 each one point by point, otherwise it's ---

5 **DEPUTY DISTRICT ATTORNEY LAIRD:** Right.

6 **PRESIDING COMMISSIONER ANGELE:** Well, let me
7 go through it. There's a statement that the
8 prosecuting attorney made regarding the offenses
9 being a very vicious attack. After the
10 confrontation at the fast food restaurant, the
11 inmate, along with No Muhamed, drove by the school
12 and planned the revenge. They subsequently
13 obtained the weapon, loaded it, and drove back to
14 the area of Fullerton High School. They were
15 lying in wait for the victim to get out of school.
16 This occurred at 3:02 p.m., the victim was killed
17 at 3:07 p.m. Is that what happened?

18 **INMATE NGO:** Yes, Sir.

19 **PRESIDING COMMISSIONER ANGELE:** Now did you
20 understand everything I just said?

21 **INMATE NGO:** When you say lying in wait, do
22 you mean I was waiting for him (inaudible).

23 **PRESIDING COMMISSIONER ANGELE:** Uh-hmm.
24 Well no there's a portion that I think is
25 extremely important in today's hearing. It says
26 after the confrontation at the fast food
27 restaurant, the defendant, which is you, and No

1 Muhamed, drove by the school and planned the
2 revenge. They, which would be you and Muhamed,
3 subsequently obtained a weapon, loaded it, and
4 then drove back to the area of Fullerton High
5 School.

6 **INMATE NGO:** That's wrong. It wasn't just
7 me and No Muhamed. There was five of us.

8 **PRESIDING COMMISSIONER ANGELE:** Okay.

9 **INMATE NGO:** So, and we didn't load the
10 weapon. I know I didn't (inaudible). I didn't
11 see the weapon until I was in the car. So that
12 statement has to be wrong.

13 **PRESIDING COMMISSIONER ANGELE:** All right.
14 But you are aware of the term lying in wait. Do
15 you know what that means?

16 **INMATE NGO:** That we were waiting.

17 **PRESIDING COMMISSIONER ANGELE:** Yeah, you
18 were parked by the school waiting for him to get
19 out of school.

20 **INMATE NGO:** Yeah.

21 **PRESIDING COMMISSIONER ANGELE:** Is that
22 basically what happened?

23 **INMATE NGO:** That's true.

24 **PRESIDING COMMISSIONER ANGELE:** Did that
25 answer your question?

26 **DEPUTY DISTRICT ATTORNEY LAIRD:** Yes. Just
27 a follow up question. Did Mr. Ngo realize that

1 the gun in the car was loaded when they were going
2 back to the school to find victim Gonzales?

3 **PRESIDING COMMISSIONER ANGELE:** When you saw
4 the gun or was there any conversation to lead you
5 to believe the gun was loaded?

6 **INMATE NGO:** They led me to believe, I think
7 it was loaded because, they say that I told the
8 police that they say, you know, use it for
9 protection. So I figured it probably is loaded.
10 But my lack of judgment that day ---

11 **DEPUTY DISTRICT ATTORNEY LAIRD:** And then
12 was, at the time that they were waiting for the
13 victim, this is addressed to the parole board, at
14 the time the suspects were waiting for the victim,
15 was victim Alex Gonzales by himself?

16 **INMATE NGO:** No, he wasn't. There was two
17 of them, Angel Gonzales and his friend. That's
18 when No Muhamed confronted Mr. Gonzales and I
19 confronted his other friend. I followed the other
20 guy, I don't know his name, and No Muhamed was
21 fighting with Mr. Gonzales. And after that, his
22 friend ran away and I helped No out.

23 **PRESIDING COMMISSIONER ANGELE:** And how
24 about the rest of your crime partners?

25 **INMATE NGO:** They didn't come until later,
26 until --- it happened so fast. Me and No was
27 fighting we didn't know until the first time the

1 gun went off and that's when everybody just
2 stopped and we started running away. After that,
3 you know, when I heard the first shot, I ran.

4 **PRESIDING COMMISSIONER ANGELE:** Okay.

5 **DEPUTY DISTRICT ATTORNEY LAIRD:** And, again,
6 this is directed to the parole board. Did Mr. Ngo
7 realize that one of his group would get out of the
8 car to confront Alex Gonzales, the victim who
9 died, with that firearm that was in the car?

10 **PRESIDING COMMISSIONER ANGELE:** Let's see if
11 I understand that clearly. Did you have knowledge
12 that somebody in the car was going to confront
13 Mr. Gonzales with that firearm?

14 **INMATE NGO:** No, Sir. Not at all.

15 **DEPUTY DISTRICT ATTORNEY LAIRD:** Did Mr. Ngo
16 nevertheless realize that somebody was going to be
17 taking that gun out of the car into the
18 confrontation?

19 **PRESIDING COMMISSIONER ANGELE:** Do you
20 understand that question?

21 **INMATE NGO:** Yes. My understanding is,
22 that's the argument between No, Mr. Muhamed, I
23 asked why did you guys bring a gun, you know,
24 without telling me, you know, when I first saw it
25 under the seat. That's when they tell me it's
26 only for protection. My understanding was it was
27 only going to be used if the other group have

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1 weapon on them; otherwise, it was supposed to be
2 in the car. Because when I agreed to go into
3 fistfight, that's all I agreed upon, was to have a
4 fistfight. I never knew that someone was going to
5 take it out and shoot him; otherwise, I probably
6 wouldn't be there. But back then I was trying to
7 get my life back straight, you know. I'm sorry,
8 but ---

9 **PRESIDING COMMISSIONER ANGELE:** Take your
10 time.

11 **INMATE NGO:** I'm sorry that Mr. Gonzales,
12 you know, died, but I never wanted that to happen.
13 It was not my intention. I thought it was just
14 for fight. (Inaudible.)

15 **PRESIDING COMMISSIONER ANGELE:** Let's take a
16 break (inaudible).

17 [Off the record.]

18 **INMATE NGO:** Thank you. I know there's
19 nothing I can say or do at this point to bring
20 back Mr. Gonzales. I know his family is probably
21 going through a lot of pain, but I was young and I
22 was ignorant, naïve. I made bad judgment.
23 There's nothing I can say to bring him back, Sir.
24 If sorry would help, but hopefully one day they'll
25 find it in their heart to forgive me.

26 **PRESIDING COMMISSIONER ANGELE:** Any
27 questions?

1 **DEPUTY DISTRICT ATTORNEY LAIRD:** Yes. I
2 appreciate that answer from Mr. Ngo. I have just
3 a couple of follow up questions to the Board
4 regarding the Tiger Mafia. Because it is printed
5 in several pieces of documentation including the
6 probation report as well as elsewhere that at
7 about the time of the murder he was affiliated
8 with a group called the Tiger Mafia. And I'm
9 aware and I can point to a picture here on the
10 table that dealt with search warrants and items
11 that were obtained and seized during the time of
12 this crime. And I've seen and become aware of
13 several drawings, that are drawings, handwritten
14 drawings of a tiger, which I'm making the
15 assumption refers to the Tiger Mafia. And I'm
16 just trying to get a clarification of what that
17 group was and why the inmate put the tattoo on his
18 arm for TM or Tiger Mafia.

19 **ATTORNEY FOX:** I'd like to pose an
20 objection to the extent that the District
21 Attorney was testifying. If there is a
22 question regarding the Tiger Mafia, I think it
23 might be asked as a direct question rather
24 than a litany of what the District Attorney
25 has seen.

26 **PRESIDING COMMISSIONER ANGELE:** I'll
27 overrule your objection. I don't believe he was

1 testifying. I believe the question has already
2 been asked and answered. The Tiger Mafia,
3 according to the inmate, was made up and the
4 initials on his arm stood for the initials of an
5 ex-girlfriend. Do you still state that?

6 **INMATE NGO:** Yes, Sir.

7 **PRESIDING COMMISSIONER ANGELE:** So there
8 never was a group called the Tiger Mafia?

9 **INMATE NGO:** No. It's just a made-up name.

10 **DEPUTY COMMISSIONER RODRIGUEZ:** Are those
11 drawings from ---

12 **DEPUTY DISTRICT ATTORNEY LAIRD:** I do not
13 know. I do not know. I just used it as a purpose
14 of illustration just because I've, in reviewing
15 the file I've seen some pictures of tigers. I see
16 a tattoo. So I'm just asking by illustrating what
17 I've seen if there was any connection to the Tiger
18 Mafia.

19 **INMATE NGO:** If you want clarification what
20 the tattoo of the tiger is, all the Fullerton Boyz
21 has a tiger on his chest. It's not because of the
22 Tiger Mafia. It's Fullerton Boyz has a tiger on
23 his chest, all of us.

24 **DEPUTY DISTRICT ATTORNEY LAIRD:** Thank you.

25 **PRESIDING COMMISSIONER ANGELE:** Anything
26 further?

27 **DEPUTY DISTRICT ATTORNEY LAIRD:** Nothing

1 further.

2 **PRESIDING COMMISSIONER ANGELE:** Ms. Fox,
3 questions of your client.

4 **ATTORNEY FOX:** Just briefly. When you were
5 found in possession of cocaine, when the police
6 officer stopped you.

7 **INMATE NGO:** Yes.

8 **ATTORNEY FOX:** They found the cocaine in a
9 purse, right?

10 **INMATE NGO:** I'm not sure where they found
11 it. I think it was underneath the seat,
12 underneath the seat when they found it. It wasn't
13 in no purse at all.

14 **ATTORNEY FOX:** Okay, that was my question.
15 If it was in the purse how did it get there. But
16 it's your testimony you didn't put it there?

17 **INMATE NGO:** No, if anything, if I remember
18 correctly I put it under the seat. If it also
19 found it'd be under the seat.

20 **ATTORNEY FOX:** So it wasn't your mother's
21 cocaine?

22 **INMATE NGO:** No. It was mine. I bought it.

23 **ATTORNEY FOX:** Okay, I have no further
24 questions.

25 **PRESIDING COMMISSIONER ANGELE:** Okay, can we
26 go into closing please, from the District
27 Attorney, Mr. Laird?

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1 DEPUTY DISTRICT ATTORNEY LAIRD: Yes, I
2 have, I've been prosecuting gang cases in my
3 office for approximately five years. I know Robin
4 Parks, she's a colleague of mine. I have tried a
5 case just like a case like this in terms that the
6 type of theory that is presented in terms of a
7 gang, group attack that results in a death. I
8 would indicate that Mr. (inaudible) who I also
9 know is, or who was the Public Defender at the
10 time, and is still a public defender representing
11 his client, basically is not talking about any
12 sort of novel or unique theory that is applied in
13 Orange County in terms of finding the defendant
14 guilty of murder by virtue of being involved in
15 gang related activity and aiding and abetting in a
16 fight on a victim that results in a murder. I
17 would note that the seriousness of the crime,
18 basically is well spoken for in the probation
19 report by Robin Park. It's also well spoken for
20 by the fact that a jury did return a first degree
21 murder verdict on this case and that there was a
22 subsequent plea apparently between the District
23 Attorney in exchange for not raising any appellate
24 rights on the case. It is my opinion that based
25 on, well I'll just withdraw, I won't make any
26 comments regarding the nature of why that plea
27 took place because I personally have not been able

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1 to find the precise material that refers to that.
2 However, I would just point to the gravity of the
3 offense in urging what we have urged in our
4 May 3rd, 2002, letter in that we believe that at
5 this point Mr. Ngo is not suitable for parole.
6 And it's largely based on the heinousness of the
7 crime in that it involved an extremely vulnerable
8 victim at the time of the group attack. It
9 involved a picture, an accurate picture of gang
10 subculture with respect to the roles of guns and
11 how guns are brought to a conflict for backup.
12 And that in the gang subculture any type of
13 escalation by rival gangs is basically a form of
14 disrespect which must be answered to. And that by
15 virtue of the victim answering with blows to
16 Mr. Ngo at the time, back in 1990, literally
17 1990's, it was just a right condition for an
18 escalation of a conflict wherein the gun would be
19 used. The People have a concern also regarding
20 the modus operandi of Asian gangs in this state in
21 that their activity is not as overt in the
22 community. They appear to be less overt regarding
23 their gang affiliation and it's hard to look at
24 the inmate essentially with a crystal ball at this
25 time. We're forced to look back at past conduct
26 that has happened which I've described above.
27 It's my belief that the inmate's account about the

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1 gun and the use of the gun at the crime is
2 somewhat unreasonable in that he indicates that
3 the reason they had a gun was for protection and
4 they were laying in wait or lying in wait for the
5 victim to come out of school. At that time, they
6 knew they had had a conflict earlier at the
7 McDonald's. They didn't know whether the victim
8 was armed or not or whether the victim's cohort
9 was armed or not. And it seems unreasonable that
10 this defendant would not know that the gun was
11 taken out of the car in concert with the rest of
12 the suspects who ended up attacking victim
13 Gonzales. And we just believe based on all the
14 psychiatric reports and based on the limited
15 contact that the experts have had with the inmate
16 that there needs to be a longer test of time
17 before this inmate is found suitable for a parole
18 date and I thank you very much for your time.

19 **PRESIDING COMMISSIONER ANGELE:** Thank you.

20 Ms. Fox.

21 **ATTORNEY FOX:** Thank you. I respectfully
22 disagree with my colleague from Orange County. I
23 think it would be appropriate to set a date for
24 Mr. Ngo today. Before the Panel is a man who has
25 matured in the prison system. Today he displayed
26 genuine remorse, which has been a hallmark of his
27 existence in the Department of Corrections. Going

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1 back to the probation report, which was used for
2 the Statement of Facts over my objection.
3 Consistently throughout there, that report Mr. Ngo
4 is cited for having stated that he did not know
5 that the weapon is in the car for any long period
6 of time before it was used and today he spoke what
7 he thought the use to which that weapon would be
8 put. It would be used in self-defense. Hindsight
9 is 20/20. He can't go back and change what
10 happened. Facts is facts. And I think the fact
11 that he stands convicted of a murder two, not
12 murder one, is a significant finding. Turning to
13 his institutional adjustment, he has minimal
14 disciplinary history, and that's consistent with
15 his personality prior to the time he came into the
16 Department of Corrections with this one very
17 tragic situation. He has improved himself to the
18 extent that he's able to within the Department of
19 Corrections having achieved two completed
20 vocations, sustained attendance at AA, good work
21 reports, and he continues to enjoy a sustained
22 excellent family support system out there. In the
23 psych report it's important to note that he does
24 have a Global Assessment score of 90, which would
25 let us know that he is able to cope with life on
26 the streets in a non-destructive manner. And he's
27 done that and it's demonstrable or has been

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1 demonstrable since he's been incarcerated. I
2 believe both psych reports accurately describe
3 Mr. Ngo, and he is ready for parole. The plans
4 are excellent. And if the Board is disinclined to
5 find him suitable for parole today, I'd suggest a
6 one or two year denial to allow him time to get
7 into the Impact program and pursue any other
8 self-help and anger management programs that the
9 Board would find useful. So we'll submit based on
10 that unless Mr. Ngo has something he'd like to
11 say.

12 **PRESIDING COMMISSIONER ANGELE:** Thank you.
13 Mr. Ngo, now it's your turn to make a statement to
14 the Panel regarding your parole suitability.
15 Before we do that, I just want to add one thing.
16 When I read the Statement of Facts from the
17 probationary report when we first started the
18 hearing, you indicated to me that that was the way
19 it happened?

20 **INMATE NGO:** Yes.

21 **PRESIDING COMMISSIONER ANGELE:** Thank you.
22 All right, do you need to make a statement or we
23 can end this hearing on what your attorney has
24 said on your behalf.

25 **INMATE NGO:** I just say, honestly I'm sorry
26 for what I've done. I accept the fact that, you
27 know, because of my ignorance that a human life

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1 was lost. And, you know, I made a mistake.
2 There's nothing I want more than to change what
3 happened. I'm sorry, but I just don't know what I
4 can say anymore. That's all I guess.

5 **PRESIDING COMMISSIONER ANGELE:** Okay. Thank
6 you for your comments. We'll recess for
7 deliberations.

8 **R E C E S S**

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CALIFORNIA BOARD OF PRISON TERMS

D E C I S I O N

DEPUTY COMMISSIONER RODRIGUEZ: We're back on record, all parties are present.

PRESIDING COMMISSIONER ANGELE: In the matter of Sieu Ngo, that's N-G-O. Mr. Ngo, the Panel has reviewed all information received from the public and relied on the following circumstances in concluding that you are not suitable for parole and would pose an unreasonable risk of danger to society or a threat to public safety if released from prison. The offense was carried out in an exceptionally cruel, callous, violent and brutal manner. The offense was carried out in a manner which demonstrates an exceptionally callous disregard for human suffering and life. And the motive for the crime was inexplicable or very trivial in relation to the offense. These conclusions were drawn from the Statement of Facts wherein the inmate and his crime partners, after altercation with the victim, armed themselves with a weapon, went to the high school where the victim, one 15 year old Angel Gonzales went to school, and waited for him to get out of school. The inmate and one of his crime partners then approached Mr. Gonzales and a friend

SIEU PHONG NGO J-07024 DECISION PAGE 1 05/13/02

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1 of his, each getting in a fight with one of them.
2 At which time both the inmate and his other crime
3 partner, both got into a fight with Mr. Gonzales.
4 At the same time three other crime partners
5 jumping in and attacking Mr. Gonzales who was shot
6 and killed after he was on the ground, by one of
7 the other crime partners. The prisoner has on a
8 previous occasion has attempted to inflict injury
9 upon a victim. This has to do with another fight
10 in which he was involved in a one-on-one, which he
11 got the better of the fight and knocked the victim
12 down and then his crime partners jumped in and all
13 started beating the victim. The inmate does have
14 an escalating pattern of criminal conduct, albeit
15 minor. However, it does include the possession of
16 rock cocaine. The inmate has received during his
17 incarceration no 115 disciplinary reports, which
18 is a very positive step. He's received two 128(a)
19 counseling chronos. 4/1/97, failure to respond to
20 a medical ducat and 2/11/00, for window coverings.
21 Psychological evaluation dated 1/23/02, by initial
22 C. Saindon, S-A-I-N-D-O-N, would indicate that the
23 inmate, or would be favorable to the inmate. The
24 inmate does have parole plans. He does have
25 residential plans in the last county of legal
26 residence, also in Los Angeles County. And does
27 SIEU PHONG NGO J-07024 DECISION PAGE 2 05/13/02

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1 have acceptable job offers. The hearing Panel
2 notes that responses to 3042 notices indicate
3 opposition to a finding of parole suitability,
4 specifically the District Attorney of Orange
5 County. The Panel makes the following findings:
6 that the inmate needs additional time in order to
7 fully understand and deal with the causation
8 factors that led to the commitment of the life
9 crime. Until progress is made, the prisoner
10 continues to be unpredictable and a threat to
11 others. Nevertheless, he should be commended for
12 his participation in NA, for his participation in
13 the 12-steps, for his completing vocational auto
14 upholstery and auto refinishing. In addition, to
15 his being 115-free during his incarceration and
16 for completing the Keys to Fatherhood a
17 salesmanship course, and the tuberculosis and
18 hepatitis courses. However, these positive
19 aspects of his behavior do not outweigh the
20 factors of unsuitability. In a separate decision,
21 the hearing Panel finds that it is not reasonable
22 to expect that parole would be granted at a
23 hearing during the following two years. The
24 specific reasons for the findings are as follows:
25 the prisoner committed the offense in an
26 exceptionally cruel, callous, violent, brutal
27 **SIEU PHONG NGO J-07024 DECISION PAGE 3 05/13/02**

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1 manner. Specifically, he and his crime partners,
2 after one of his crime partners was involved in a
3 fight with the victim, left, armed themselves with
4 a weapon, and then went back to the school area
5 where the victim had gone to school, waited for
6 the victim to get out of school. The inmate and
7 one of his crime partners then got involved in a
8 one-on-one fight with the victim and one of his
9 friends. After which, the inmate and his crime
10 partner both began fighting with the victim. They
11 were then joined in by two other individuals who
12 were beating the victim, knocked to the ground.
13 One of the crime partners shot and killed the
14 victim, one Angel Gonzales, age 15. The offense
15 was carried out in an exceptionally cruel and
16 callous manner. The motive for the crime was
17 inexplicable or very trivial in relation to the
18 offense. The prisoner had been involved in
19 previous violent behaviors, which included once
20 again, a fistfight with an individual who he got
21 the better of and knocked down and after which
22 time three of his crime partners and him all began
23 continuing to strike the victim. The correctional
24 counselor's report dated (inaudible) 2002, by
25 initial M. Rubio, R-U-B-I-O, indicates a degree of
26 threat as moderate if released to the public.

27 SIEU PHONG NGO J-07024 DECISION PAGE 4 05/13/02

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1 Therefore, a longer period of observation and
2 evaluation of the prisoner is required before the
3 Board should find the prisoner is suitable for
4 parole. The Panel recommends that inmate remain
5 disciplinary-free. If available, upgrade any way
6 you can, vocation, education. If available,
7 participate in self-help and therapy programming.
8 That does conclude the reading of the decision.
9 Any comments, Commissioner Rodriguez?

10 **DEPUTY COMMISSIONER RODRIGUEZ:** Yeah,
11 Mr. Ngo, one thing I think you took more of a
12 leadership role in this incident and I think
13 you've been a little bit less than truthful today.
14 If I'm wrong and what you stated today is the
15 truth, I don't expect you to change your story
16 just for the Board's panel. But I truly would
17 like you to take this next two years, as far as
18 I'm certain you're programming well, don't
19 misunderstand me. But I think there's more to the
20 incident than you're actually telling us today.
21 Whether you just don't want to say it or you
22 choose not to say it or throughout the years
23 you've made yourself believe what you've said in
24 the past is correct. But I think if you look deep
25 down, I truly believe that you took more of a
26 leadership role and that possibly you did have,
27 **SIEU PHONG NGO J-07024 DECISION PAGE 5 05/13/02**

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1 know more about that weapon. So I want you to
2 think about that. But, again, like I said, if I
3 am incorrect, I don't expect you to come to the
4 Board next time and say you did do it if you
5 didn't. But I will ask you one more time, did you
6 know more about that gun?

7 **INMATE NGO:** (Inaudible) not until I looked
8 under the car. When I got into the car, that's
9 the first time I seen the gun, Sir.

10 **DEPUTY COMMISSIONER RODRIGUEZ:** Did you plan
11 the assault or the incident?

12 **INMATE NGO:** No, Sir.

13 **DEPUTY COMMISSIONER RODRIGUEZ:** Okay. Thank
14 you.

15 **ATTORNEY FOX:** I'm sorry. That's vague,
16 because he did earlier say he planned to fight
17 him, but not shoot him.

18 **INMATE NGO:** Thank you.

19 **DEPUTY COMMISSIONER RODRIGUEZ:** Okay, no, no
20 that's all right counselor. Thank you. And I
21 just want to wish you the best of luck.

22 **PRESIDING COMMISSIONER ANGELE:** Mr. Ngo, let
23 me tell you, you know, what disturbs me is the
24 other fight you had and we're very familiar with
25 the gang mentality. Regardless of whether or not
26 you beat somebody, going to beat somebody, the end

27 **SIEU PHONG NGO J-07024 DECISION PAGE 6 05/13/02**

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1 result is everybody jumps on a guy when he's down.
2 It happened in another fight you had. I think
3 your statement was, you couldn't be responsible
4 for what they do, but I'll tell you very frankly
5 if it was one of your crime partners involved in
6 that, you'd of jumped in just like everybody else
7 did. That's the way things are. We both know
8 that.

9 **INMATE NGO:** Yes, it is.

10 **PRESIDING COMMISSIONER ANGELE:** It disturbs
11 me that the killing of Mr. Gonzales was the same
12 type of situation. The only difference is
13 somebody had a gun there. So the history that you
14 started to accumulate would indicate to me that
15 the gang mentality that has no respect at all for
16 humanity, you know what happens next?

17 **INMATE NGO:** That's when I was young, Sir.

18 **PRESIDING COMMISSIONER ANGELE:** I realize
19 that. I realize that. And the reason why I
20 brought that up is I'd really like to see you get
21 into that anger management program here.

22 Hopefully, they'll get it out for you or you'll
23 get into it soon and maybe the next time you'll
24 have it under your belt. I figure it will help.
25 And I don't want this to discourage you. You're
26 doing a good job. And for an initial hearing,

27 **SIEU PHONG NGO J-07024 DECISION PAGE 7 05/13/02**

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1 your counsel knows, that two years is not a bad
2 thing. So I do wish you good luck.

3 **INMATE NGO:** Thank you, Sir.

4 **PRESIDING COMMISSIONER ANGELE:** That does
5 conclude the hearing. Time is approximately 3:52
6 p.m.

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25 **PAROLE DENIED TWO YEARS**

26 **EFFECTIVE DATE OF THIS DECISION** JUN 10 2002

27 **SIEU PHONG NGO J-07024 DECISION PAGE 8 05/13/02**

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**CERTIFICATE AND
DECLARATION OF TRANSCRIBER**

I, VALERIE C. LORD, a duly designated transcriber, CAPITOL ELECTRONIC REPORTING, do hereby declare and certify under penalty of perjury that I have transcribed tape(s) which total one in number and cover a total of pages numbered 1 through 64, and which recording was duly recorded at CORRECTIONAL TRAINING FACILITY, AT SOLEDAD, CALIFORNIA, in the matter of the INITIAL PAROLE CONSIDERATION HEARING of SIEU PHONG NGO, CDC No. J-07024, on MAY 13, 2002, and that the foregoing pages constitute a true, complete, and accurate transcription of the aforementioned tape(s) to the best of my ability.

I hereby certify that I am a disinterested party in the above-captioned matter and have no interest in the outcome of the hearing.

Dated May 23, 2002, at Auburn, California.

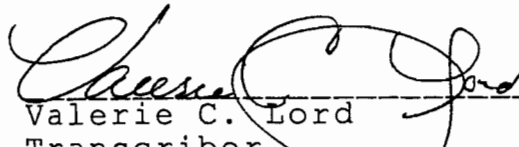

Valerie C. Lord
Transcriber
CAPITOL ELECTRONIC REPORTING

EXHIBIT C

SUBSEQUENT PAROLE CONSIDERATION HEARING

STATE OF CALIFORNIA

BOARD OF PRISON TERMS

In the matter of the Life)
Term Parole Consideration)
Hearing of:)

SIEU NGO)
_____)

CDC Number J-07024

COPY

INMATE

CORRECTIONAL TRAINING FACILITY

SOLEDAD, CALIFORNIA

AUGUST 3, 2004

1:15 P.M.

PANEL PRESENT:

BOOKER WELCH, Presiding Commissioner
ROLANDO MEJIA, Deputy Commissioner

OTHERS PRESENT:

SIEU NGO, Inmate
DAVID SPOWART, Attorney for Inmate
JENNIFER CONTINI, Deputy District Attorney

CORRECTIONS TO THE DECISION HAVE BEEN MADE

_____	No	See Review of Hearing
_____	Yes	Transcript Memorandum

Wendy Thomas, Capitol Electronic Reporting

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P R O C E E D I N G S

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DEPUTY COMMISSIONER MEJIA: We are now on the record.

PRESIDING COMMISSIONER WELCH: Okay, good afternoon, Mr. Ngo.

INMATE NGO: Good afternoon.

PRESIDING COMMISSIONER WELCH: Sir, this is a Subsequent Parole Consideration Hearing. I'll read your case factors into the record. The prisoner's name is Ngo, N-G-O. How do you pronounce your first name?

INMATE NGO: Sieu.

PRESIDING COMMISSIONER WELCH: Sieu, S-I-E-U, CDC number J-07024. The date of the hearing is Tuesday, August 3rd, 2004, the time is approximately 1:15. The location is Correctional Training Facility, Soledad. The prisoner was received CDC on 2-1, 1994 from Orange County for the offense of murder second, case number C99109, count one, Penal Code violated 187, total term 16 years to life, minimum eligible parole date was 5-24-03. Sir, this hearing will be tape-recorded so for the purpose of voice identification, we'll need to go around the room and identify ourselves stating our full name, spelling our last name. In your case, you need to add your CDC number. I'll start with myself, go to my left. My name is

1 Booker Welch, W-E-L-C-H. Mr. Mejia.

2 **DEPUTY COMMISSIONER MEJIA:** Rolando Mejia,
3 M-E-J-I-A, Deputy Commissioner.

4 **DEPUTY DISTRICT ATTORNEY CONTINI:** Jennifer
5 Contini, C-O-N-T-I-N-I, Deputy District Attorney,
6 Orange County.

7 **ATTORNEY SPOWART:** David Spowart,
8 S-P-O-W-A-R-T, attorney for Mr. Ngo.

9 **INMATE NGO:** Sieu Ngo, S-I-E-U N-G-O, CDC
10 number J-07024.

11 **PRESIDING COMMISSIONER WELCH:** Okay, sir,
12 that identifies everyone in the room with the
13 exception of the correctional peace officer who is
14 seated directly behind you, two of them, and
15 they're here for security purposes only and will
16 not be taking part in today's proceedings. Mr.
17 Ngo, are you familiar with the American with
18 Disabilities law?

19 **INMATE NGO:** No, I'm not, Sir.

20 **PRESIDING COMMISSIONER WELCH:** Well, that
21 form in front of you, it will give you a good
22 overview. Do you mind reading that into the
23 record.

24 **INMATE NGO:** "ADA American with
25 Disability Act. Americans with
26 Disability Act (ADA) is a law to help
27 people with disabilities.

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1 Disabilities are problems that make
2 it harder for some people to see,
3 hear, breathe, talk, walk, learn,
4 think, work, or take care of
5 themselves than it is for others.
6 Nobody can be kept of public places
7 or activities because of a
8 disability. If you have a
9 disability, you have the right to ask
10 for help to get ready for your BPT
11 hearing to get to the hearing, talk,
12 read forms and papers, and understand
13 the hearing process. BPT will look
14 at what you ask for to make sure that
15 you have a disability that is covered
16 by the ADA and that you have asked
17 for the right kind of help. If you
18 do not get help or if you don't think
19 you've got the kind of help you need,
20 ask for a BPT 1074 Grievance Form.
21 You can also get help to fill it
22 out."

23 **PRESIDING COMMISSIONER WELCH:** Very good.

24 Mr. Ngo, does that give you a little bit better
25 overview of what the American with Disabilities
26 law is all about?

27 **INMATE NGO:** Yes. Yes, Sir.

1 **PRESIDING COMMISSIONER WELCH:** Now after
2 being armed with that knowledge, let me ask you,
3 do you have a disability as defined under the
4 American Disabilities Act?

5 **INMATE NGO:** No, Sir.

6 **PRESIDING COMMISSIONER WELCH:** I see you
7 have glasses, do you need those to read?

8 **INMATE NGO:** I'm nearsighted.

9 **PRESIDING COMMISSIONER WELCH:** Nearsighted,
10 okay. You have no problems talking, reading here,
11 or walking, is that correct? You were able to
12 walk over under your own power today?

13 **INMATE NGO:** Yes, Sir.

14 **PRESIDING COMMISSIONER WELCH:** You have a
15 12.3 overall TABE grade point level which would
16 indicate to the Board that you're totally capable
17 of reading and understanding the documents
18 necessary to prepare for this hearing, is that
19 correct?

20 **INMATE NGO:** Correct, Sir.

21 **PRESIDING COMMISSIONER WELCH:** Have you
22 received any mental health treatment within the
23 last 12 months?

24 **INMATE NGO:** No, Sir.

25 **PRESIDING COMMISSIONER WELCH:** Counselor, do
26 you have any concerns about your client's rights
27 as it relates to the American with Disabilities

5

1 law?

2 **ATTORNEY SPOWART:** I have none.

3 **PRESIDING COMMISSIONER WELCH:** Okay, then
4 we'll proceed with this hearing. The purpose of
5 today's hearing is to once again to consider your
6 suitability for parole. We will consider the
7 nature and the number of the crimes you were
8 committed for, your prior criminality, your social
9 history, and your behavior and programming since
10 your commitment. We've had an opportunity to
11 review your C-File and your prior transcripts and
12 you'll have an opportunity to make corrections or
13 clarifications to the record. We will consider
14 your progress since your last hearing, any new
15 psychiatric reports, and any other information
16 that may have a bearing on your suitability for
17 parole. Any change in parole plans should be
18 brought to our attention. Before we recess for
19 deliberations, the District Attorney, your
20 attorney, and yourself will be given the
21 opportunity to make a final statement regarding
22 your suitability for parole and the length of
23 confinement. After that's done, we will recess,
24 clear the room, and deliberate. Once we reached a
25 decision, we will reconvene and at that time we'll
26 let you know what our decision is. Do you
27 understand all that so far?

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1 **INMATE NGO:** Yes, Sir.

2 **PRESIDING COMMISSIONER WELCH:** Now the Board
3 of Prison Terms rules and the law basically state
4 that a parole date shall be denied you if in the
5 opinion of the Commissioners your parole would
6 pose an unreasonable risk of danger to others.
7 However, prisoners do have certain rights.
8 Counsel, have your client's rights been met?

9 **ATTORNEY SPOWART:** Yes, they have.

10 **PRESIDING COMMISSIONER WELCH:** Mr. Ngo, you
11 have an additional right, you have the right to a
12 fair and impartial panel. Do you have any reason
13 to believe the Panel Members will not be fair and
14 impartial to you?

15 **INMATE NGO:** I would like to reserve that
16 right towards the end of this hearing.

17 **PRESIDING COMMISSIONER WELCH:** Okay. Mr.
18 Ngo, that's fine, I don't have a problem with
19 that, but I do need to tell you that I have no
20 reason not to give you a fair hearing. I have
21 every intention to make sure that your due process
22 rights are adhered to. I've already covered your
23 ADA issues and made sure you didn't have any
24 issues with that. I'll be going over your due
25 process right issues to insure that you don't have
26 a problem with your rights. And during the
27 hearing, it is -- I have every intention to insure

1 that you receive a fair and impartial hearing.
2 Commissioner, do you have any reasons why you
3 can't give the prisoner a fair hearing?

4 **DEPUTY COMMISSIONER MEJIA:** No, I'm
5 objective and I take the case on a case by case
6 basis, no predetermined opinion or belief for
7 suitability or unsuitability. I'll base all my
8 decision based on what I hear here and also what's
9 reflected in his file.

10 **PRESIDING COMMISSIONER WELCH:** Okay, very
11 good. Sir, you will receive a copy of our written
12 tentative decision today. The decision becomes
13 effective in 120 days. Mr. Ngo, you no longer
14 have a right to administrative appeals process, do
15 you understand that?

16 **INMATE NGO:** Yes, I do.

17 **PRESIDING COMMISSIONER WELCH:** Okay.

18 **INMATE NGO:** The 1040 you mean?

19 **PRESIDING COMMISSIONER WELCH:** Yes. You're
20 not required to discuss the offense today, you're
21 not required to admit to guilt. However, the
22 Panel Members accept as true the findings of the
23 court. Do you understand that concept?

24 **INMATE NGO:** Yes, I do.

25 **PRESIDING COMMISSIONER WELCH:** Counselor,
26 pardon me?

27 **INMATE NGO:** I would like to say that I will

1 not be talking about -- discussing my case, my
2 case today under Penal Code section 5011. And
3 before we go any further, I would like to submit
4 this memorandum as evidence in support of my
5 parole suitability to you.

6 **PRESIDING COMMISSIONER WELCH:** Okay, I'll
7 take it at this time, but you're getting a little
8 ahead of the game, we were going to give you an
9 opportunity. That's fine we'll accept it now,
10 how's that?

11 **INMATE NGO:** Thank you.

12 **PRESIDING COMMISSIONER WELCH:** Okay, very
13 good. And certainly you do not have to talk or
14 admit to the crime. Very good. Commissioner, is
15 there any confidential information to be used
16 today?

17 **DEPUTY COMMISSIONER MEJIA:** None.

18 **PRESIDING COMMISSIONER WELCH:** Good.
19 Counselor, I passed you a list of the documents we
20 will be working from. Do you have those
21 documents?

22 **ATTORNEY SPOWART:** Yes, I have these.

23 **PRESIDING COMMISSIONER WELCH:** District
24 Attorney, do you have those documents?

25 **DEPUTY DISTRICT ATTORNEY CONTINI:** Yes, I
26 do.

27 **PRESIDING COMMISSIONER WELCH:** Counselor, do

1 you have any additional documents to submit? Your
2 counsel have already -- I mean, your client have
3 already submitted a brief.

4 **ATTORNEY SPOWART:** He's already given me
5 that brief, he says the first 10 pages are an
6 overview of why he should be considered.

7 **PRESIDING COMMISSIONER WELCH:** Why he should
8 be considered for parole.

9 **INMATE NGO:** Because it would clarify my
10 position at this hearing today, Sir.

11 **PRESIDING COMMISSIONER WELCH:** Okay, then we
12 will review that during deliberations, we'll go
13 through and review that.

14 **INMATE NGO:** All right, Sir.

15 **PRESIDING COMMISSIONER WELCH:** Very good,
16 very good. Any other documents to submit?

17 **ATTORNEY SPOWART:** No, I haven't.

18 **PRESIDING COMMISSIONER WELCH:** Any
19 preliminary objections?

20 **ATTORNEY SPOWART:** Yeah, I have an
21 objection. This was a plea agreement and I have
22 an objection to the District Attorney being here
23 today on a recent Supreme Court ruling that
24 classifies a plea agreement as a contract. I know
25 that my client was not the shooter, he had no
26 criminal prior record, and has had an excellent
27 performance since he's been in here, so.

1 **PRESIDING COMMISSIONER WELCH:** What does
2 that have to do with the District Attorney being
3 here?

4 **ATTORNEY SPOWART:** That the District
5 Attorney is breaking the contract (inaudible).
6 When he pled, he gave up certain rights. The
7 People got certain benefits from that.

8 **PRESIDING COMMISSIONER WELCH:** Okay.

9 **ATTORNEY SPOWART:** They got their benefits.
10 Now they're just trying to deny him of his
11 benefits.

12 **PRESIDING COMMISSIONER WELCH:** Okay, all
13 right, I think I understand.

14 **ATTORNEY SPOWART:** (Inaudible).

15 **PRESIDING COMMISSIONER WELCH:** Okay.

16 **ATTORNEY SPOWART:** I just want it on the
17 record, Commissioner.

18 **PRESIDING COMMISSIONER WELCH:** Okay,
19 absolutely, absolutely. I'm going to overrule
20 that objection because according to Penal Code
21 3042, section 3042 that is, the District Attorney
22 or his representative have a right to appear and
23 represent The People's interest at these hearings.
24 If not the District Attorney, certainly the
25 Attorney General, he can appear depending on who
26 prosecuted the case or has a major interest in the
27 case, not one or both, but only one can appear.

11

1 In this case, The People -- the District Attorney
2 of Orange County have opted to send his
3 representative, i.e., the Deputy District Attorney
4 from Orange County here to represent the District
5 Attorney. Therefore, per statute, per Penal Code,
6 I'll have to overrule that objection, okay. All
7 righty, thank you very much. Any other
8 objections?

9 **ATTORNEY SPOWART:** I have none.

10 **PRESIDING COMMISSIONER WELCH:** All right,
11 thank you, Mr. Spowart. Okay, and your client
12 will not be speaking to us today?

13 **ATTORNEY SPOWART:** Not on the life crime, he
14 pled on the crime.

15 **PRESIDING COMMISSIONER WELCH:** Will he be
16 speaking -- will he be giving any testimony today?

17 **ATTORNEY SPOWART:** Yes, he'll talk about
18 everything else.

19 **PRESIDING COMMISSIONER WELCH:** Okay, Mr.
20 Ngo, would you raise your right hand.

21 **INMATE NGO:** Yes, Sir.

22 **PRESIDING COMMISSIONER WELCH:** Do you
23 solemnly swear or affirm that the testimony you
24 give today will be the whole truth and nothing but
25 the truth?

26 **INMATE NGO:** Yes, I do, Sir.

27 **PRESIDING COMMISSIONER WELCH:** Okay. In

12

1 that case what I'm going to do, Mr. Ngo, is just
2 go to -- let me give this to my colleague, he can
3 take a look at it and then I'll take a look at it
4 later. Are your parole plans in that brief you
5 submitted?

6 **INMATE NGO:** Yes, Sir.

7 **PRESIDING COMMISSIONER WELCH:** You've got
8 everything in it, okay.

9 **INMATE NGO:** Parole plan, place for
10 residence, employment, support letters.

11 **PRESIDING COMMISSIONER WELCH:** Okay, very
12 good. Let's go to the summary of the crime, it
13 say,

14 "On 9-18, 1992 Angel Gonzalez,
15 G-O-N-Z-A-L-E-Z, was beaten and shot
16 to death near Fullerton,
17 F-U-L-L-E-R-T-O-N, High School as he
18 walked home after school. An
19 investigation revealed that earlier
20 in the day the victim, a member of
21 the Fullerton Tokers, T-O-K-E-R-S,
22 Town, a Latin gang, and members of
23 the Fullerton Boys, an Asian gang,
24 were at a McDonald's Restaurant near
25 the high school. The victim and
26 Usumang Muhamed had a confrontation
27 with each claiming their respective

13

1 gang affiliations. After a
2 nonphysical altercation, a group of
3 Asians, which at the time included
4 Sieu Phong Ngo obtained -- and middle
5 name is spelled P-H-O-N-G, referring
6 to the prisoner, obtained a firearm.
7 Ngo and the Asian gang members
8 returned to the school where they
9 waited for Gonzalez. As he walked
10 home, he was attacked and beaten.
11 During the physical altercation, the
12 victim was shot one time in the back
13 by Usumang, that's U-S-U-M-A-N-G,
14 Muhamed, M-U-H-A-M-E-D. The group of
15 five Asian gang members including Ngo
16 fled the area after shooting Angel
17 Gonzalez who died at the scene as a
18 result of the gunshot wound. Ngo,
19 Jimmy Bao, B-A-O, and Asat, A-S-A-T,
20 Cham, C-H-A-M, --"

21 or is that Ham? C-H-A?

22 **INMATE NGO:** Cham.

23 **PRESIDING COMMISSIONER WELCH:** "-- Cham,
24 C-H-A-M, fled to the State of Washington. They
25 were subsequently apprehended there and the murder
26 weapon, a stolen .22 caliber handgun, was
27 recovered in the vehicle." Now we'll go to the

1 prisoner's version,

2 "Ngo explained that earlier in the
3 day his group had a confrontation
4 with the victim. Subsequently he and
5 his group went to an arcade to play
6 games. At that time his companion
7 took possession of a weapon. Ngo
8 stated that he did not see the gun
9 until he was in the vehicle. It was
10 located under the passenger's seat
11 and he and his companion returned to
12 Fullerton High School where they
13 parked and went to look for Gonzalez,
14 the victim. Ngo explained that they
15 had a gun for protection in case
16 someone else happened to have a
17 weapon. They found Gonzalez and his
18 group and started fighting with the
19 victim. During the fighting Ngo
20 heard two shots. Ngo explained that
21 no one intended to kill the victim,
22 they just planned to beat him up
23 because the victim had told them to
24 get out of town and that made Muhamed
25 angry. Ngo realized that his
26 behavior was a mistake. Ngo drove
27 his two companions to Washington

15

1 because Muhamed told him that he knew
2 someone who would give them shelter.
3 Ngo feels sorry for the victim's
4 family."

5 Juvenile record, there's no juvenile arrest. Will
6 you be talking about your juvenile record, I mean,
7 your criminal history?

8 **INMATE NGO:** I have no juvenile record. I
9 have one drug diversion with a controlled
10 substance. I was given a diversion but I was
11 never able to complete it --

12 **PRESIDING COMMISSIONER WELCH:** Okay.

13 **INMATE NGO:** -- because I got this case,
14 that's about it.

15 **PRESIDING COMMISSIONER WELCH:** It says, no
16 juvenile record as previously noted. On 3-30,
17 1992 Ngo was arrested by the San Gabriel Police
18 Department for possession of controlled substance,
19 three pieces of rock cocaine. On 5-7-92 he was
20 diverted pursuant to Penal Code section --
21 pursuant to section 1000 of the Penal Code. On
22 9-22, 1992, Ngo was arrested by the Olympic
23 Sheriff for possession of stolen property. This
24 case was subsequently dismissed. So you had two
25 arrests?

26 **INMATE NGO:** Yes, because we were arrested
27 in Washington.

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1 **PRESIDING COMMISSIONER WELCH:** Okay.

2 **INMATE NGO:** I guess you can consider it as
3 two, for the same crime.

4 **PRESIDING COMMISSIONER WELCH:** Well, it says
5 you was arrested for stolen property and that was
6 dismissed.

7 **INMATE NGO:** They say the gun -- I sold the
8 gun but I never lived in Washington so they note
9 there was a (indiscernible) chance I stole the gun
10 when he brought it to California, so. I didn't
11 know nothing about the gun. I just drove there
12 for shelter like I said. I didn't know nothing
13 about the stolen property.

14 **PRESIDING COMMISSIONER WELCH:** All right,
15 now we have the explanation on the record.
16 Personal factors, Ngo was born in Vietnam on 5-18,
17 1973. He resided in the United States until 1979.
18 In 19 -- He resided in the United States since
19 1979. In 1991 he graduated from Fullerton High
20 School and subsequently attended Fullerton
21 Community College and Pasadena City College. He
22 completed 10 units and his major was business.
23 Ngo was employed as a telemarketing and worked odd
24 jobs. He was employed at his family's liquor
25 store and resided with his parents. Ngo had
26 problems with -- Ngo had problems with controlled
27 substance or alcohol. Is that true?

17

1 **INMATE NGO:** I don't have no problem with
2 drugs at this point. I never drank alcohol
3 because I'm allergic to alcohol. I tried cocaine
4 and I got busted.

5 **PRESIDING COMMISSIONER WELCH:** Okay.

6 **INMATE NGO:** I have never used since, since
7 that day.

8 **PRESIDING COMMISSIONER WELCH:** Have you used
9 any -- used any other illegal substances?

10 **INMATE NGO:** No, I don't, Sir.

11 **PRESIDING COMMISSIONER WELCH:** Okay. It
12 says you were a member of the Fullerton Boys, is
13 that correct, gang?

14 **INMATE NGO:** Used to be.

15 **PRESIDING COMMISSIONER WELCH:** Okay. And
16 after you moved to Los Angeles you became
17 affiliated with the Tiger Mafia.

18 **INMATE NGO:** Yeah, that was just a made up
19 name (inaudible) at that point.

20 **PRESIDING COMMISSIONER WELCH:** What?

21 **INMATE NGO:** It was a made up name, like I
22 told my last hearing that it was just to throw the
23 detective off my trail.

24 **PRESIDING COMMISSIONER WELCH:** To throw the
25 detective off your trail, okay, all right. Your
26 family, do you have any brothers and sisters?

27 **INMATE NGO:** Yes, I do, Sir.

1 **PRESIDING COMMISSIONER WELCH:** How many?

2 **INMATE NGO:** I've got one older brother, two
3 older sisters, one younger brother, and one
4 younger sister.

5 **PRESIDING COMMISSIONER WELCH:** Okay, any of
6 your brothers have problems with law enforcement
7 agents?

8 **INMATE NGO:** No.

9 **PRESIDING COMMISSIONER WELCH:** Any of your
10 brothers been members of gangs?

11 **INMATE NGO:** No.

12 **PRESIDING COMMISSIONER WELCH:** Did you grow
13 up in an intact home with both parents?

14 **INMATE NGO:** Yes, I did, Sir.

15 **PRESIDING COMMISSIONER WELCH:** Would you say
16 you had a stable home environment?

17 **INMATE NGO:** Yes, I have.

18 **PRESIDING COMMISSIONER WELCH:** Were you
19 married before you came to prison?

20 **INMATE NGO:** No, Sir.

21 **PRESIDING COMMISSIONER WELCH:** Any childrens
22 before you came to prison?

23 **INMATE NGO:** No, Sir.

24 **PRESIDING COMMISSIONER WELCH:** Did you ever
25 serve in any branch of the military?

26 **INMATE NGO:** No. I tried it but they didn't
27 want me because I was a smoker back then.

19

1 **PRESIDING COMMISSIONER WELCH:** Because you
2 were smoker of what?

3 **INMATE NGO:** Cigarettes, tobacco.

4 **PRESIDING COMMISSIONER WELCH:** And the
5 military turned you down because you smoked
6 tobacco?

7 **INMATE NGO:** Yes.

8 **PRESIDING COMMISSIONER WELCH:** What year was
9 that?

10 **INMATE NGO:** I think I tried it during --
11 after my graduation in South Pasadena and before
12 my graduation it was '89 or '90 I tried, I wanted
13 to go to the Marines because I heard they can
14 travel around the world.

15 **PRESIDING COMMISSIONER WELCH:** And they
16 turned you down because you smoke?

17 **INMATE NGO:** Yes.

18 **PRESIDING COMMISSIONER WELCH:** That's a new
19 one on me.

20 **INMATE NGO:** That's what they said.

21 **PRESIDING COMMISSIONER WELCH:** Okay, depends
22 on what you smoke. What did you smoke? What did
23 you tell them you smoked?

24 **INMATE NGO:** Tobacco.

25 **PRESIDING COMMISSIONER WELCH:** Okay, just
26 tobacco, huh?

27 **INMATE NGO:** Just tobacco.

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1 **PRESIDING COMMISSIONER WELCH:** All right.

2 It says you had -- and we already talked about you
3 said you had odd jobs, fast-food and you worked in
4 your family's liquor store, is that correct?

5 **INMATE NGO:** Yes, Sir.

6 **PRESIDING COMMISSIONER WELCH:** Is that
7 pretty much your employment history?

8 **INMATE NGO:** Yes.

9 **PRESIDING COMMISSIONER WELCH:** Okay, what
10 I'd like for you to do now is give your attention
11 to my colleague, he's going to talk to you about
12 post-conviction. I'll come back and talk to you
13 about your parole plans.

14 **INMATE NGO:** All right, Sir.

15 **DEPUTY COMMISSIONER MEJIA:** All right, Mr.
16 Ngo, I'll be covering your institutional
17 adjustment in this portion of this hearing since
18 your last Board appearance. I have reviewed your
19 Central File, Board reports and psychiatric
20 reports. If I miss anything, I'll be giving you
21 and your attorney an opportunity to make comments
22 at the end of my presentation. Your last Board
23 appearance was on May 13th, 2002 where you received
24 a two-year denial. Your recommendation was for
25 you to remain disciplinary free, upgrade
26 educationally, participate in self-help and
27 therapy. Classification score is 19, custody

21

1 level is medium A, you're assigned to the culinary
2 warehouse, correct?

3 **INMATE NGO:** Correct, Sir.

4 **DEPUTY COMMISSIONER MEJIA:** And I see some
5 laudatory chronos here about your performance.
6 Vocational history, you have an auto upholstery
7 completion, an auto finishing completion. You
8 also have a forklift certification.

9 **INMATE NGO:** Correct, Sir.

10 **DEPUTY COMMISSIONER MEJIA:** And I see that
11 you're taking classes (inaudible) with the
12 Coastline Community College.

13 **INMATE NGO:** Correct, Sir.

14 **DEPUTY COMMISSIONER MEJIA:** When did you
15 start this?

16 **INMATE NGO:** A little over -- about two
17 years now.

18 **DEPUTY COMMISSIONER MEJIA:** Two years. How
19 many years have you completed so far?

20 **INMATE NGO:** So far completed -- at this --
21 this class I'm taking health right now. Currently
22 I have 23.

23 **DEPUTY COMMISSIONER MEJIA:** Twenty-three
24 units.

25 **INMATE NGO:** I will have 23 units.

26 **DEPUTY COMMISSIONER MEJIA:** Forklift. Do
27 you have a high school?

22

1 INMATE NGO: Yes, I do.

2 DEPUTY COMMISSIONER MEJIA: Where did you
3 complete your high school at?

4 INMATE NGO: Fullerton Union High.

5 DEPUTY COMMISSIONER MEJIA: Fullerton Union
6 High. Do you have a copy of the diploma?

7 INMATE NGO: I should, yes.

8 DEPUTY COMMISSIONER MEJIA: Can I see it,
9 please? I couldn't find it in here.

10 INMATE NGO: It should be in my file.

11 DEPUTY COMMISSIONER MEJIA: If I thought --
12 If it was here I wouldn't ask for it. Maybe I'm
13 just missing it but I don't want to spend time
14 looking for it.

15 INMATE NGO: Unless I didn't put it in
16 there.

17 DEPUTY COMMISSIONER MEJIA: It's not in your
18 --

19 INMATE NGO: It's not in my C-File either?

20 DEPUTY COMMISSIONER MEJIA: It's not in your
21 --

22 INMATE NGO: I guess I didn't put it in
23 there. I figured the C-File had it, but I can
24 always get you a copy if you need one.

25 DEPUTY COMMISSIONER MEJIA: Okay. What year
26 did you graduate there?

27 INMATE NGO: '91.

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23

1 DEPUTY COMMISSIONER MEJIA: 1991?

2 INMATE NGO: It was '91, yes.

3 DEPUTY COMMISSIONER MEJIA: Okay, and since
4 your last Board appearance in 2002 you were -- I
5 see that you have started in AA since 1997 and
6 then you switched to NA 2001 (inaudible)?

7 INMATE NGO: I've been going, yes.

8 DEPUTY COMMISSIONER MEJIA: The last chrono
9 was on --

10 INMATE NGO: It should be -- my last chrono
11 was 7-8-04 date of it.

12 DEPUTY COMMISSIONER MEJIA: Okay, 7-8-04 is
13 your NA participation.

14 INMATE NGO: My most recent one.

15 DEPUTY COMMISSIONER MEJIA: Yes, and the one
16 I have here on file is 2003 of March. Okay, you
17 also completed the IMPACT program in 2002
18 workshop?

19 INMATE NGO: Right.

20 DEPUTY COMMISSIONER MEJIA: 3-16, 2002.

21 There's a chrono from Mr. Vazquez, warehouse
22 supervisor, as a culinary storekeeper. You have
23 performed your assignment with excellence. You
24 have a good, helpful, mature attitude and has
25 worked even on holidays. On disciplinaries, you
26 have zero 115s and two 128(a)'s from -- one on
27 April '97 and one on 2000 -- in 2000. (Inaudible)

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1 gang affiliation noted (inaudible) Tiger Mafia
2 member. And when was the last time you were
3 hanging out with the Tiger Mafia as a member?

4 **INMATE NGO:** Well, there is no Tiger Mafia,
5 as I was saying earlier, it's just a made up name,
6 so I don't have -- you know, there's no more gang
7 for me. I've grown out of it. Back then it was
8 just a --

9 **DEPUTY COMMISSIONER MEJIA:** So was that the
10 Fullerton?

11 **INMATE NGO:** Fullerton, yes.

12 **DEPUTY COMMISSIONER MEJIA:** What was that,
13 Fullerton --

14 **INMATE NGO:** Fullerton Boys, they call it
15 Fullerton Boys.

16 **DEPUTY COMMISSIONER MEJIA:** Fullerton Boys
17 named as the Tiger Mafia? Are you talking about
18 the same place?

19 **INMATE NGO:** No, it's two different places,
20 LA right, I was living at LA at that time so, you
21 know, when they asked me where I was from, I told
22 them Tiger Mafia because they saw two initials on
23 my arm with TM so I just told them Tiger Mafia
24 just to make it up.

25 **DEPUTY COMMISSIONER MEJIA:** So was there
26 really a Tiger Mafia gang?

27 **INMATE NGO:** No, there's not. You can check

1 into LA Police Department, you will not find no
2 Tiger Mafia at all.

3 **DEPUTY COMMISSIONER MEJIA:** Well, I'm going
4 to your psych report. Your psych report is dated
5 January 21, 2002 by Dr. Saindon, spelling
6 S-A-I-N-D-O-N. We're going to look at your
7 substance abuse history, we have heard that you
8 said that you tried cocaine. "Previous mental
9 health evaluation for the Board of Prison Terms
10 has recommended that he be involved in AA and NA.
11 However, inmate feels that he never really had a
12 drug or alcohol problem although he does currently
13 attend AA." And you are attending NA right now,
14 right?

15 **INMATE NGO:** Right.

16 **DEPUTY COMMISSIONER MEJIA:** Okay. And his
17 mental health status at this time of the
18 evaluation 2002 indicates that,

19 "There's no evidence of mood or
20 thought disorder, his judgment
21 appeared to be sound, showed
22 significant insight into his
23 commitment offense as far as some
24 recognition. There's no guarantee
25 that he will be paroled at this time
26 by the Board of Prison Terms."

27 Diagnostic impressions, No Contributory Clinical

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1 Disorder, Axis I. Axis II Deferred, Axis III No
2 Contributory Physical Disorder, Axis IV Long-Term
3 Incarceration, Axis V Global Assessment of
4 Functioning of 90. There's no evidence that he
5 suffers from any psychiatric illness. Assessment
6 of dangerousness, "Although --" he says,

7 "There's no evidence the inmate
8 currently suffers from any
9 psychiatric illness although he does
10 recognize that (inaudible) he was
11 vulnerable to depression and was
12 tempted by conscious altering
13 substances. In consideration of the
14 fact that he has received no 115s
15 through his entire incarceration, it
16 would appear that he has at least in
17 this controlled setting been able to
18 manage his behavior and remain
19 incident free."

20 Assessment of dangerousness,

21 "Mr. Ngo (inaudible) with the
22 information given in the Central File
23 and medical record with respect to
24 his prior history of (inaudible) or
25 attempt to use cocaine and was
26 affiliated with gangs, this resulted
27 in his current offense. Based upon

27

1 his complete lack of disciplinary
2 action while incarcerated, his
3 insight into negative aspects of gang
4 involvement, his remorse for his
5 actions, his violence potential
6 within a controlled is to be below
7 average relative to the level II
8 inmate population. If released to
9 the community, his violence potential
10 is estimated to be less than the
11 average citizen in the community
12 given his insight, his demonstrated
13 ability to stay out of trouble, his
14 successful development of plans upon
15 release, and the support of his
16 family. (Inaudible) the most
17 significant risk factor for this
18 inmate as a precursor to violence or
19 a return to criminal behavior would
20 be his being involved with others
21 having a criminal history and/or gang
22 members, the use of alcohol and
23 drugs, and isolation from his family
24 members. As this man has spent 10
25 years in prison, I would recommend,
26 should he be paroled, abstinence from
27 all alcohol and use of uncontrolled

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1 substance, frequent monitoring of
2 substance abuse, if at all possible
3 should be a relative so he's near to
4 his family, and should make frequent
5 reports to his parole officer. Given
6 his family's commitment in supporting
7 him upon his release, his projected
8 level of success in the community if
9 granted a date for parole is seen at
10 this time to be better than average."

11 His counselor based him as posing a low degree of
12 threat to the community if released. Have you got
13 any comments or any additions to my presentation,
14 Counsel?

15 **INMATE NGO:** Do you have any of my support
16 letters from my family because --

17 **DEPUTY COMMISSIONER MEJIA:** That will be
18 done by --

19 **INMATE NGO:** Okay.

20 **DEPUTY COMMISSIONER MEJIA:** Any additional
21 comments?

22 **PRESIDING COMMISSIONER WELCH:** Are you done?

23 **DEPUTY COMMISSIONER MEJIA:** Yeah.

24 **PRESIDING COMMISSIONER WELCH:** Okay.

25 **DEPUTY COMMISSIONER MEJIA:** I'll go back to
26 the Chair and we'll take a recess.

27 **PRESIDING COMMISSIONER WELCH:** Okay, we'll

29

1 take a recess for a minute.

2 [Off the record.]

3 **PRESIDING COMMISSIONER WELCH:** Mr. Ngo, in
4 case --

5 **DEPUTY COMMISSIONER MEJIA:** We're back on
6 record.

7 **PRESIDING COMMISSIONER WELCH:** Mr. Ngo, in
8 case you receive a parole date, tell the Panel
9 where you plan to live.

10 **INMATE NGO:** I'll be living with my mom to
11 start off.

12 **PRESIDING COMMISSIONER WELCH:** Where does
13 your mom live?

14 **INMATE NGO:** In Monterey Park.

15 **PRESIDING COMMISSIONER WELCH:** Do you have
16 an INS hold?

17 **INMATE NGO:** No, Sir.

18 **PRESIDING COMMISSIONER WELCH:** Are you a US
19 citizen?

20 **INMATE NGO:** Yes, Sir.

21 **PRESIDING COMMISSIONER WELCH:** Okay, and how
22 do you plan to support yourself?

23 **INMATE NGO:** I'll be working at my uncle's
24 restaurant for now, (inaudible) chef.

25 **PRESIDING COMMISSIONER WELCH:** Okay, and you
26 have lots of support letters in the file and your
27 affidavit that you submitted. And it appears that

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1 you do have employment and you have a place to
2 live. I'll start off by going over some of your
3 letters. Your mom wrote you a letter, her name is
4 Ngo Phuong? Phuong Huynh?

5 **INMATE NGO:** Phuong Huynh.

6 **PRESIDING COMMISSIONER WELCH:** Phuong Huynh,
7 okay, let me just spell the first name, the first
8 name is spelled P-H-U-O-N-G, and the middle name
9 is H-Y -- H-U-Y-N-H, and the last name is the same
10 as the prisoner's, N-G-O. Anyway, she writes you
11 a very supportive letter. She says,

12 "As the birth mother of Sieu Ngo, I
13 am writing to request for your
14 leniency and kind review of the
15 parole of Sieu Ngo. Years ago our
16 family immigrated into the United
17 States from Vietnam. With the kind
18 support from the US Government and
19 local communities, we settled down in
20 California and became US citizens in
21 1979. All of our family members are
22 deeply indebted to our government and
23 community and we are determined to
24 serve our country when called for.
25 In fact, my children volunteer at
26 school and communities and help out
27 kids. I have six children, some are

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1 college graduates and are doing very
2 well in their careers, such as Chi
3 Phong Ngo, middle name is -- I mean,
4 first name is C-H-I, middle name is
5 P-H-O-N-G. My son is a quality
6 assurance software engineer. Judy
7 Seeto --" Seeto?

8 **INMATE NGO:** Correct.

9 **PRESIDING COMMISSIONER WELCH:**

10 "--S-E-E-T-O, my daughter, is
11 pursuing a college degree while
12 working full-time at Pacific Care.
13 And Lan Lau, L-A-N, last name is
14 L-A-U, another daughter, is an
15 assistant technician working at DG --
16 DCG Group Pacific Bell, SPG
17 (inaudible) Solutions Incorporated.
18 My husband was running a paint
19 business. Unfortunately he passed
20 away in 1995 at the age of 47. Some
21 of my uncles and aunts are business
22 owners of restaurants and stores. I
23 used to run a family business too, a
24 convenience store."

25 And she says,

26 "Sieu Ngo have been working and
27 studying hard in prison and doing

1 well in his college studies. Please
2 be assured that Sieu Ngo, if paroled,
3 will be well taken care of and
4 supervised by his family, relatives,
5 and friends. We, his immediate
6 family members, will support him in
7 every aspect of life. We plan to let
8 him complete his college studies
9 before entering the workforce. We
10 are financially capable and
11 emotionally prepared and spiritually
12 determined to help Sieu Ngo and his
13 endeavors to create his reborn life
14 and become a contributing member to
15 our society. Thank you in
16 anticipation of your kind review in
17 granting Sieu Ngo parole."

18 And your mother signed that. Very supportive.

19 And another one from Gavin Ung. Is that U-N-G?

20 **INMATE NGO:** Yes, my uncle.

21 **PRESIDING COMMISSIONER WELCH:** He says,

22 "I am in the Chinese restaurant
23 business and currently employ about
24 20 workers. Sieu, if released from
25 prison, he will also be welcomed to
26 work for me if he so chooses.

27 Besides me willing to provide him

1 with accommodation, transportation,
2 and job, I believe there are a lot of
3 other relatives such as his mom,
4 siblings, uncles, and aunts who are
5 willing -- who will always be more
6 than willing to help with all his
7 essential daily needs."

8 Okay, and I have another one from Chi Ngo/Judy Ngo
9 -- slash Judy Ngo, and she writes -- she's writing
10 on behalf of her brother. She feels that you're a
11 good man and, "Tom is a good man and will remain
12 so. He's a caring person who wants to take care
13 of his mother if he gets a second chance. My wife
14 and I can fully support him financially and care
15 for all his personal needs including housing. I
16 believe Tom --" Do you also go by the name of Tom?

17 **INMATE NGO:** Yes, that's my middle name.

18 **PRESIDING COMMISSIONER WELCH:** Okay. "I
19 believe Tom -- I believe in Tom and only good will
20 shine from him as each day passes." Another
21 letter here from --

22 **INMATE NGO:** Thanah.

23 **PRESIDING COMMISSIONER WELCH:** T-H-A-N-A-H,
24 he writes you a very supportive letter.

25 **INMATE NGO:** She.

26 **PRESIDING COMMISSIONER WELCH:** She, okay,
27 your older sister I'm trying to say.

1 **INMATE NGO:** Second oldest.

2 **PRESIDING COMMISSIONER WELCH:** Second oldest
3 sister. And she says,

4 "As you can see he's just the kind of
5 person and always there for anyone
6 who needs help. Because of his
7 caring and kind personality, he has
8 done some harm to himself, this is
9 how he got himself into this mess.
10 I'm sure that the whole mess has
11 taught my brother to beware of his
12 friends. Sieu's decision to hang out
13 with his friends was a costly one.
14 My brother was a young naïve. Now
15 he's a grownup person and realizes
16 his actions and takes responsibility
17 to make changes to become a better
18 person."

19 And she goes on to say, "Our family have already
20 arranged for his support once he's released, my
21 husband's store," and she writes the telephone
22 number, "and is located on (indiscernible) Avenue
23 and Alhambra. And a matter of fact his uncle --
24 his aunts and uncle also offered him work in their
25 restaurant. The store name is Hot Wok --"

26 **INMATE NGO:** Hot Wok.

27 **PRESIDING COMMISSIONER WELCH:** That's H-O-T

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1 W-O-K, "-- and that's in Fullerton. And there's a
2 First (inaudible) Kitchen that's in Anaheim.
3 Housing would not be a problem. And we all make
4 arrangements for him." So Duc Ngo?

5 **INMATE NGO:** Duc Ngo.

6 **PRESIDING COMMISSIONER WELCH:** D-U-C Ngo.
7 Anyway, that's your brother, says, "I'm writing a
8 letter in support of my brother." He writes you a
9 very supportive letter and he pretty much voices
10 the same thing that the other ones wrote. I have
11 another letter here from your defense attorney at
12 the time and I'll read his letter. He says, "I
13 represented --" her letter. I should say,

14 "I represented Mr. Ngo in the case
15 which sent him to prison. I have
16 been a criminal defense attorney for
17 over 26 years and have represented
18 over 40 persons accused of homicides.
19 I do not see my clients through rose
20 colored glasses and have never
21 written a letter like this on behalf
22 of an inmate for a parole hearing.
23 The circumstances of Mr. Sieu's case
24 compel me to make a statement in this
25 instant. At the time of the incident
26 he was a very likable young man and
27 with no significant criminal history.

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1 My recollection, he had no conviction
2 of any crime or violence. The
3 incident in question was very
4 different from the typical gang case
5 and in fact a work sketching for your
6 review, Sieu and his friends was a
7 wannabe type group who did not really
8 have a significant history of tough
9 turf in Orange County as a gang. On
10 the day of the incident, some of
11 Sieu's friends by chance went to
12 McDonald's which was near Fullerton
13 High School in North Orange County.
14 Sieu was not present at the time.
15 One of Sieu's ultimate codefendants
16 got in a staring match with the
17 decedent and some of his friends who
18 were members of the Toker Gang --
19 Toker Town, a long established
20 Hispanic group in Fullerton.
21 Essentially the Toker, that's spelled
22 T-O-K-E-R T-O-W-N -- Essentially the
23 Toker Town Group told Sieu's friends
24 that they, Cooks, that's C-O-O-K-S,
25 were not welcome in Fullerton where
26 some of them already live and they
27 should get out of town. (Inaudible)

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1 Sieu's friends decided to confront
2 the decedent's group after school got
3 out that day. Sieu was called to
4 help out in case they were
5 outnumbered. Their group waited at
6 the school and confronted the
7 decedent and one of his friends about
8 two blocks out of Fullerton High
9 School, not on school grounds. From
10 all appearances, this was intended to
11 be a fistfight. Sieu and his friends
12 who had been in the stare-down
13 approached the decedent and a friend
14 who was walking on the sidewalk and a
15 fistfight is how it started.
16 However, the decedent's friend fled
17 just after the punching began and
18 left Sieu and his friend fighting the
19 decedent who was much larger than
20 either of them. Of course this was
21 unfair but nothing at this point
22 suggested that this was intended to
23 be a homicide. A third member of
24 Sieu's -- A third member of the group
25 who was part of -- A third member of
26 the group who was part of (inaudible)
27 from where their car was parked to

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1 the scene of the site, he reached up
2 while the fight was in progress, shot
3 the decedent, killed him, and
4 narrowly missed Sieu. Sieu and all
5 of his friends then fled, ultimately
6 being arrested out of state.

7 Evidence was received to show that
8 Sieu and his friends knew that a gun
9 was in a car. Based largely upon
10 that and the theory of foreseeable
11 consequences, he and all of his
12 codefendants were convicted. Sieu
13 was not the shooter and no evidence
14 to show that he suggested,
15 encouraged, abated -- or abetted the
16 shooting in any way. After the
17 shooting, Sieu angrily confronted the
18 shooter, demanded to know why he
19 brought out the gun and asserted that
20 he, Sieu, didn't know the gun was
21 going to be used. In summary, this
22 was not a drive-by or a similar gang
23 crime where everyone knew (inaudible)
24 should have known that death or
25 serious injury was intended. On the
26 contrary, this appears to be an
27 impulsive act by one member of the

1 group which due to the rest of the
2 circumstances swept them all up by
3 way of the derivative liability --
4 derivative liability,
5 D-E-R-I-V-A-T-I-V-E. I am not
6 suggesting that Sieu and the other
7 non-shooters bear no responsibility
8 for the tragic outcome, but for the
9 fight of course, no shooting would
10 have taken place. However, I would
11 submit that the circumstances here
12 are significantly mitigated where --
13 when considered against other
14 convictions of this type. Assuming
15 that Sieu's performance within the
16 Department of Corrections has been
17 positive, I would urge you to parole
18 at the earliest possible time."

19 Donald J. Rubright -- Donald G. Rubright, that's
20 R-U-B-R-I-G-H-T, Senior Deputy Public Defender,
21 Orange County. Okay, and you have other letters
22 and some are duplicates and you have other family
23 members providing support. And Raymond Seeto, the
24 brother-in-law, also writes you a supportive
25 letter and he notes that,

26 "Putting a roof over his head won't
27 be a problem. He can stay with his

1 mother, brother, or sisters. Tom has
2 a large extended family. This is his
3 base of support. Lastly, I beg the
4 Board to look at the facts
5 surrounding his conviction. He was a
6 young -- He was young and naïve."

7 So you have lots of family support and you have
8 lots of job offers and you have people offering
9 you a place to live. And most importantly you
10 have a letter from the Public Defender's Office
11 outlining the case and there's no reason to
12 dispute what he's saying is true and he wrote you
13 a very supportive letter. And I have to say I
14 haven't seen too many letters from the Public
15 Defender's Office in support of parole. And with
16 that we'll go to 3042 Notices. We sent out
17 notices pursuant to Penal Code 3042. We sent
18 those out to different agencies that would have an
19 interest in your case. I do see a letter here
20 from the Orange County Deputy District Attorney's
21 Office and basically what it's saying is that the
22 District Attorney's Office will be attending the
23 life parole consideration hearing, and they have
24 their representative here and at the appropriate
25 time she'll have something to say about your
26 parole suitability. Okay, with that we'll go to
27 questions. Commissioner, do you have any

1 questions?

2 **DEPUTY COMMISSIONER MEJIA:** Yes. It looks
3 like you've been attending NA, AA, or self-help
4 since '97?

5 **INMATE NGO:** I was attending mostly -- I was
6 attending both at the time but I dropped out of AA
7 because I feel that I don't need it because I
8 don't drink, I'm allergic to alcohol. I never
9 drank. And I think that I might -- you know,
10 because of my drug offense, I decided to go to NA
11 to better myself, to learn, so that's why I've
12 been attending NA.

13 **DEPUTY COMMISSIONER MEJIA:** What have you
14 learned so far?

15 **INMATE NGO:** To stay sober, to be a better
16 person. Drugs can really harm a person, I mean,
17 change a person, even though you are guilty or
18 not, drugs can just alter your state of mind, you
19 can't function properly using drugs.

20 **DEPUTY COMMISSIONER MEJIA:** Did they teach
21 the 12-Steps as well?

22 **INMATE NGO:** Yes.

23 **DEPUTY COMMISSIONER MEJIA:** Do you remember
24 what -- any of the 12-Steps?

25 **INMATE NGO:** Yes, I remember all those.

26 **DEPUTY COMMISSIONER MEJIA:** You remember all
27 of them. Can you give me one?

1 **INMATE NGO:** Which one?

2 **DEPUTY COMMISSIONER MEJIA:** Whichever you
3 recall.

4 **INMATE NGO:** Number one that I admitted to
5 God, to myself that (inaudible) drugs or alcohol,
6 that our lives will become unmanageable. Two,
7 make a decision to turn our will and our lives
8 over to the care of God (inaudible) carry that
9 out. Three, make decisions, turn our will and our
10 lives over to the care of God and (inaudible).
11 Four, made a searching fearless moral inventory
12 about ourselves.

13 **DEPUTY COMMISSIONER MEJIA:** How old were you
14 when you were involved in this crime?

15 **INMATE NGO:** I was 19.

16 **DEPUTY COMMISSIONER MEJIA:** You were 19.
17 You are how old now?

18 **INMATE NGO:** I'm 31.

19 **DEPUTY COMMISSIONER MEJIA:** Let me just --
20 [Thereupon, the tape was turned over.]

21 **DEPUTY COMMISSIONER MEJIA:** When did you get
22 involved with the gangs, you were 18 then, how old
23 were you when you started with the gang?

24 **INMATE NGO:** Believe it or not -- gang is a
25 harsh word because like there was only like five
26 or six of us, you know, during that time. We were
27 more friends because I (inaudible) know these

1 guys, I've been moved there for about a year, and
2 I hang around with them, you know. So to me it's
3 more like a friend more than a gang but because we
4 live at Fullerton they call themselves Fullerton
5 Boys.

6 **DEPUTY COMMISSIONER MEJIA:** How old were you
7 when you started hanging out with them?

8 **INMATE NGO:** I think I was 16 or 17, Sir.

9 **DEPUTY COMMISSIONER MEJIA:** So about two
10 years.

11 **INMATE NGO:** Yeah, about two years.

12 **DEPUTY COMMISSIONER MEJIA:** If you get
13 released to the streets, how are you going to get
14 away from the elements of the gang lifestyle?

15 **INMATE NGO:** Knowing what a gang can do to a
16 person, I have confidence that I can stay away
17 from them, you know, because I learned from my
18 mistakes, that's how I've grown. I know I can
19 deal with problems differently, you know, just
20 staying away, choose better friends, think before
21 I act, everything, what I've learned in here to be
22 a better person.

23 **DEPUTY COMMISSIONER MEJIA:** No other
24 questions.

25 **PRESIDING COMMISSIONER WELCH:** Okay, there's
26 one thing in your brief that a lot of it's clothed
27 in legal terminology, but there is one thing that

1 I think I will put on the record in your defense,
2 it's, "Considering the facts of my personal
3 culpability as established, it is clear that the
4 category --" well, that's not what I'm trying to
5 read. Here it is, the next paragraph says,

6 "Since there are no words adequate
7 enough to express the sincerity of my
8 remorse of the acceptance of
9 responsibility for my past conduct
10 and behavior, I offer the following
11 actions, that I stipulate to the
12 aggravated term of 19 years in
13 accordance with 15CCR243 that I
14 stipulate to whatever other parole
15 conditions that the Board deems
16 necessary upon me."

17 Okay. I was looking for something for your
18 remorse and I guess that's the closest thing I've
19 found there. And under the facts of the crime,
20 starting off where you said, "The facts of the
21 crime shall be discussed with the prisoner to
22 assess determination, the extent of culpability,
23 the Board shall not require the admission --" we
24 already know that. "Furthermore, I fully and
25 truly confess and accept the facts of my personal
26 culpability and responsibility for the life
27 crime." Okay, anyway. Commissioner, District

1 Attorney, do you have any questions?

2 **DEPUTY DISTRICT ATTORNEY CONTINI:** Just very
3 briefly. Could the Board ask the inmate, he
4 testified or stated that he made up the name Tiger
5 Mafia because he had TM tattooed on his shoulder.
6 What does TM stand for then?

7 **INMATE NGO:** My ex-girlfriend's name,
8 Theresa May.

9 **DEPUTY DISTRICT ATTORNEY CONTINI:** Could the
10 Board inquire of the inmate why he would make up
11 another gang affiliation and tell a police officer
12 that?

13 **INMATE NGO:** Because at the time I just
14 wanted to throw off the investigator because when
15 I was arrested they knew I was from Fullerton so
16 just (inaudible) I didn't want to be associated
17 with them so I threw them off by making up a name.

18 **DEPUTY DISTRICT ATTORNEY CONTINI:** Could the
19 Board inquire of the inmate when he and his crime
20 partners were arrested in the State of Washington,
21 he was arrested for possession of stolen property,
22 could the Board inquire of him whether or not he
23 was aware that was not only the murder weapon in
24 his life case but also a nine-millimeter
25 (inaudible) assault pistol that was in the car?

26 **INMATE NGO:** Both of the weapons don't
27 belong to me, they belonged to my crime partner.

1 I'd never been to the State of Washington until I
2 drove there myself. I'd never been out of the
3 State of California, period, so --

4 **PRESIDING COMMISSIONER WELCH:** Did you
5 understand the question?

6 **INMATE NGO:** She had stated why the weapon
7 was in the car.

8 **PRESIDING COMMISSIONER WELCH:** She said were
9 you aware.

10 **INMATE NGO:** Of the gun, yes, I was, Sir.

11 **PRESIDING COMMISSIONER WELCH:** The other
12 weapon?

13 **INMATE NGO:** Yes.

14 **PRESIDING COMMISSIONER WELCH:** Okay.
15 District Attorney.

16 **DEPUTY DISTRICT ATTORNEY CONTINI:** Could the
17 Board inquire of the inmate, he drove his crime
18 partner and fellow gang members to the State of
19 Washington, correct?

20 **INMATE NGO:** Yes, that's correct.

21 **DEPUTY DISTRICT ATTORNEY CONTINI:** And could
22 the Board just finally inquire of the inmate, he
23 indicated he had the 11350 arrest for the drug, in
24 the probation report for this case, indicated that
25 he and some other individual had previously beaten
26 up Hispanic men at a school, is he familiar with
27 that case?

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1 **INMATE NGO:** I'm wondering (inaudible) that
2 was never brought up, I don't see what it has to
3 do with my case right now. (Inaudible) a fight,
4 everybody was getting in a fight. We were young
5 then.

6 **PRESIDING COMMISSIONER WELCH:** Okay.

7 **INMATE NGO:** That was, you know --

8 **PRESIDING COMMISSIONER WELCH:** Let's backup.
9 District Attorney, would you re-ask the question.

10 **DEPUTY DISTRICT ATTORNEY CONTINI:** Sure.

11 Would the Board inquire of the inmate, in his
12 probation report for this case, the victim by the
13 last name of Perez was interviewed regarding a
14 physical altercation at a school in which the
15 inmate began the physical altercation and then
16 three of the inmate's companions joined in kicking
17 and punching the victim Perez, alleged to have
18 happened December 14th, 1990. Is he familiar with
19 that assault?

20 **INMATE NGO:** Yes, I am familiar with it. I
21 was never convicted on anything. I was released.
22 What can I say?

23 **PRESIDING COMMISSIONER WELCH:** Well, you can
24 tell her the circumstances. I don't think any --

25 **INMATE NGO:** Well,

26 **PRESIDING COMMISSIONER WELCH:** --

27 (inaudible) what happened.

1 **INMATE NGO:** For that fight I was going to
2 pick up my girlfriend at the school at that time.
3 She was in the agricultural or floral rearranging
4 class. I went over there to pick her up and Mr.
5 Perez, I guess, at that -- you know, tell me, who
6 the hell are you, and then he started cussing me.
7 He don't even know who I am. (Inaudible) what is
8 he doing, you know, what is his business. So I
9 just left it at that and I left, and I was waiting
10 for my girlfriend at the parking lot and he came
11 out and started mad-dogging me.

12 **PRESIDING COMMISSIONER WELCH:** What does
13 mad-dogging mean?

14 **INMATE NGO:** It means staring me down and
15 then he asked me who the hell -- you know, F, what
16 are you looking at. I said, what's your problem?
17 So he came over (inaudible) confronted so I just
18 socked him, you know.

19 **PRESIDING COMMISSIONER WELCH:** You socked
20 him?

21 **INMATE NGO:** Yes, because he wanted to fight
22 me for some reason so I just was trying to defend
23 myself so I socked him first and that's it.

24 **PRESIDING COMMISSIONER WELCH:** Okay, all
25 right. District Attorney.

26 **DEPUTY DISTRICT ATTORNEY CONTINI:** Could the
27 Board just inquire of the inmate whether or not

1 his three companions that assaulted Mr. Perez on
2 that day were also Fullerton Boys gang members?

3 INMATE NGO: No.

4 PRESIDING COMMISSIONER WELCH: No?

5 INMATE NGO: No, they weren't.

6 DEPUTY DISTRICT ATTORNEY CONTINI: I don't
7 have anything further.

8 PRESIDING COMMISSIONER WELCH: Okay.
9 Counselor, do you have any questions for your
10 client?

11 ATTORNEY SPOWART: I have nothing.

12 PRESIDING COMMISSIONER WELCH: Okay, Mr.

13 Ngo, at this time we go -- at this portion of the
14 hearing we go to closing. We start off with the
15 District Attorney. District Attorney, closing.

16 DEPUTY DISTRICT ATTORNEY CONTINI: The
17 People of the State of California strongly oppose
18 any parole of Mr. Ngo at this time. This case was
19 a cold-blooded murderer of a 15-year-old. Yes,
20 rival gang member, but a 15-year-old when this
21 inmate was 19 years, two years out of high school.
22 He and his friends, after a mad-dogging incident,
23 lie in wait essentially waiting for this young man
24 to walk home from school. In the inmate's version
25 of events to the Board previously, he indicated
26 that he didn't know that a gun was in the car and
27 that at the same breath he indicates that they had

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1 the gun for protection. Neither of those things
2 make any sense in the gang world, and when you are
3 waiting for an individual to assault them, it
4 seems ridiculous to say that you have the gun for
5 protection. Moreover, Mr. -- the victim, the 15-
6 year-old, in the case was walking with another
7 friend when he was first engaged by this inmate
8 and one other person which shows that this inmate
9 was a leader in this attack. There's five
10 individuals involved, he's one of the first ones
11 to go up and start beating the 15-year-old. I
12 just want to touch briefly on Mr. Rubright's
13 letter, the public defender, because he indicates
14 in that letter that -- just give me one moment, he
15 indicates in that letter that this was a wannabe
16 gang and I just have a strong -- strongly disagree
17 with that. This is a gang that had a loaded gun
18 that they used on this 15-year-old. It's also a
19 gang that when they're arrested after fleeing to
20 the State of Washington, has the nine-millimeter
21 stolen gun, both of the guns stolen, both the .22
22 and the nine-millimeter. In addition to that,
23 there's a level of sophistication involved in this
24 crime in that the suspects fled and they burn the
25 car that they were driving, and that's contained
26 in the record. They burn the car that they were
27 driving before taking off to Washington and this

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1 inmate is the one who drove them to Washington.
2 Finally, I would note that although this inmate's
3 criminal history, it was not extensive, he does
4 have the drug offense, and then two years before
5 the killing he has this incident where he and some
6 other fellows are beating up an individual, so
7 there is an escalation of violence in his
8 background there. When he first was housed at the
9 Orange County Jail, he had three incidents in the
10 Orange County Jail which were noted in his
11 probation report, the last was the mutual combat.
12 He's obviously done well in the last few years
13 here, but he does have a couple of -- I believe I
14 saw a couple of 128s in his record, so we're
15 talking 12 years since this incident occurred.
16 Based on the gang nature of it, basically a cold-
17 blooded execution of a 15-year-old boy, we would
18 strongly oppose a parole at this point.

19 **PRESIDING COMMISSIONER WELCH:** Counselor,
20 closing.

21 **ATTORNEY SPOWART:** If we look at Mr. Ngo's
22 entire history, he had no juvenile record. He
23 came from a very good family, an excellent letter
24 from his mother, talking about her other children,
25 their accomplishments. My client graduated from
26 high school. He was attending Fullerton Community
27 College and then Pasadena City College. He

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1 completed 10 units. In other words, he had a
2 stable social history. He was in high school at
3 that time, various ethnic groups, Latinos, Asians,
4 and they would fight, and this happens. He did
5 get in a fight once when he tried to pick up his
6 girl. Now the DA says this shows an escalating
7 pattern. Motivation for the crime was basically a
8 gang fight. He was 19 then and he's 31 now.
9 Excellent parole plans which we've gone over, a
10 place to live, a place to work, good letters of
11 support. Now, this is exactly what I was talking
12 about when I objected. This is a murder second-
13 degree plea. The DA comes up here today says
14 cold-blooded lying in wait. If that was true then
15 the District Attorney's Office was grossly
16 inadequate in the prosecution of my client. Why
17 wasn't he up for life without parole or the death
18 penalty? Come on, give me a break, that is not
19 what happened. He went with his friends, this big
20 gang, five guys, that he went over with and they
21 went over because one of them had gotten in
22 (inaudible) and they went over to have a fight, it
23 was clear. As his trial attorney says, the fight
24 started and later on a guy comes up with a gun and
25 shoots the victim. It wasn't my client. He did
26 not have a gun. He's never been violent. If you
27 look at the Board report and he gives -- he says

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1 he would pose a low degree of threat to the public
2 at this time. This opinion is based on Ngo being
3 immature at the time of the crime and easily
4 influenced by his peers. The crime was episodic
5 in nature. It wasn't planned, it wasn't cold-
6 blooded, it wasn't lying in wait, it was none of
7 those. It was a pure simple these five guys got
8 in a fight. My client was there, he didn't even
9 know they had the gun. He wasn't living in
10 Fullerton at the time, he was living in Pasadena,
11 going to college. His institutional adjustment
12 has been outstanding, two 128(a)'s in the entire
13 time he's been down. No 115s. Where is the
14 violence? Where's the violence? Where's the
15 escalating pattern? There isn't any. He
16 completed IMPACT Workshop program, and if you
17 notice they talk about the IMPACT program it
18 includes anger management, domestic violence, gang
19 violence, murder and sexual assault, it includes
20 all these things. So he's had good therapy there.
21 He's been AA or NA the entire time he's been down.
22 He completed the course of Sexual Transmitted
23 Disease, has excellent work reports, completed the
24 Salesmanship and the Key to Fatherhood, completed
25 the forklift certification. The Board report is
26 low. Now let's look at the psych report, and
27 let's remember, the psych report is the expert

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1 here, and this is low too. The Commissioner read
2 it, based on his complete lack of disciplinary
3 actions while incarcerated, his insight into the
4 negative aspects of gang involvement, and his
5 remorse for his actions, he has expressed remorse,
6 and the psych takes that into consideration, his
7 violence potential within a controlled setting is
8 estimated to be below average relative to this
9 level inmate II population, which is low. If
10 released to the community, his violence potential
11 is estimated to be less than, not average, but
12 less than the average citizen in the community.
13 And he talks about, given his insight, his
14 demonstrated ability to stay out of trouble, his
15 successful development of plans upon release and
16 the support of his family -- and I know -- look
17 again at his plans, he's very detailed. This is a
18 serious young man. He's very serious about
19 wanting to get out. He has clearly worked to get
20 out. He admits what he did. You can't get away
21 from it, he was there, he participated. It was a
22 fight and then there was a gun there. He did not
23 do the shooting. He had no reason to believe that
24 this other guy would shoot anybody, it happened.
25 The point is, we're here now when he's 31 years
26 old not 19. He's been in Coastline Community
27 College, he's preparing himself to get out. He's

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1 paid for his crime. For his part in that crime,
2 he has paid for it. And he's stated, if you find
3 me suitable, give me the highest because I know I
4 shouldn't have been there and I shouldn't have
5 participated in this. Board report low, psych
6 report below average here, less than average. Do
7 you know what that means? Look at anybody walking
8 downtown Fullerton or Pasadena, they're the
9 average Joes. And he, the psych, the
10 professional, is saying my client is no more -- is
11 less dangerous than they are, less dangerous. So
12 how now does he become an unreasonable risk of
13 danger to society. I think not. You know, I'm
14 surprised really, I know it's difficult to get a
15 date on your first initial hearing, but I'm
16 surprised that this man didn't get a date on his
17 initial hearing. I think he should be found
18 suitable today and I'll submit it.

19 **PRESIDING COMMISSIONER WELCH:** Okay, Mr.
20 Ngo, you can make a closing statement or you can
21 let your attorney's statement be your closing
22 statement.

23 **INMATE NGO:** I'd like to make a statement.
24 During my last initial hearing, previous hearing,
25 one of the Commissioners told me that I needed
26 time to understand the nature and circumstances of
27 my crime and my disregard for human life. In my

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1 defense, I would say that it's part of telling the
2 truth because for the last 12 years I've had
3 nothing but time to think about my crime. It's
4 with me every day, it's a reminder every day. I
5 know nothing I can say or do can bring back Mr.
6 Angel Gonzalez. I know I caused a lot of harm to
7 his family, anyone involved, but there's nothing I
8 can say or do at this point to ever change the
9 fact. You know, I know what I did, or lack of on
10 my part is, I could have maybe have stopped this
11 from happening if I was smart enough to act upon
12 it because I was young and naïve. I know that's
13 not an excuse, but looking back now I see what I
14 could have done if I'd have known better. I took
15 full complete responsibility for my action. I
16 can't take responsibility for others, only for
17 myself. I know I'm partly responsible that's why
18 I know I deserve to do some time, but I have done
19 my time. I have done everything you have asked me
20 to do, I've gone beyond my scope of
21 (indiscernible) to better myself. All I ask is
22 that you give me a fair chance, a second chance.
23 I know I have to prove to you that I can be a law-
24 abiding citizen, but if you should not find me
25 suitable at this time, I'd ask you, urge you, to
26 please specify what exactly I need to do in order
27 to be found suitable at my future hearings.

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1 That's all I ask of you. Thank you.

2 PRESIDING COMMISSIONER WELCH: Okay, thank
3 you very much for our comments. We'll take a
4 recess.

5 R E C E S S

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CALIFORNIA BOARD OF PRISON TERMS

D E C I S I O N

DEPUTY COMMISSIONER MEJIA: Okay, we're back on record for our decision.

PRESIDING COMMISSIONER WELCH: Okay, Mr. Ngo, we have a decision. The Panel reviewed all the information received from the public and relied on the following circumstances in concluding -- could you close the door, please, -- in concluding that the prisoner is not suitable for parole and would pose an unreasonable risk of danger to society or a threat to public safety. One, this crime was carried out in an especially cruel and callous manner. Gang related violence in a community is always cruel and callous violence. Actually there was multiple victims attacked, one was killed, one ran away and was able to escape. The offense was carried out in a dispassionate, it was a calculated manner. The victim was abused, he was beaten and then he was shot. The offense was carried out in a manner that demonstrates an exceptionally callous disregard for another human being. The motive for the crime was inexplicable or very trivial in relationship to the offense. Any gang-related activity in our community is (inaudible) and

SIEU NGO J-07024 DECISION PAGE 1 8/3/04

1 inexplicable type of behavior, it's the type of
2 behavior that certainly cannot be condoned in any
3 well-ordered society. The conclusion was drawn
4 from the Statement of Facts wherein on 9-18-92
5 Angel Gonzalez who was beaten and shot to death
6 near Fullerton High School as he was walking away
7 -- as he was walking home. The circumstances
8 surround this crime, apparently the prisoner and
9 some of his gang members had been at a McDonald's.
10 There was a stare down contest and apparently some
11 words was exchanged. The prisoner and his crime
12 partners waited for the victim as he was walking
13 home and a fight ensued and he was shot and killed
14 with a .22 caliber handgun. Mr. Angel Gonzalez,
15 aged 15, lost his life over a very, very trivial
16 matter, over a matter that really cheapens human
17 life, the gang related -- the gang mentality that
18 occurs in our cities. The prisoner really did not
19 have an escalating pattern of criminal conduct.
20 He did have one contact with law enforcement
21 agency. He has -- well, two contacts with law
22 enforcement agencies, one was for a controlled
23 substance and one was for stolen property
24 including the instant offense, so he did not have
25 a major record of criminal history or an
26 escalating pattern of violent type of behavior.
27 **SIEU NGO J-07024 DECISION PAGE 2 8/3/04**

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1 Under unstable social history, other than the
2 prisoner's gang activity or involvement in gang
3 activity to whatever extent it was. The Board
4 have no reason to disbelieve the public defender
5 who detailed from his perspective what had
6 occurred, so it does not appear that the prisoner
7 was heavily into gang activity, criminal type of
8 behavior. Also under unstable -- it appears that
9 the prisoner did have a stable home environment,
10 the letters from the family are very impressive in
11 terms of the type of support he have in the
12 community. The prisoner has programmed in an
13 acceptable manner. Recent psychological report
14 shows that the prisoner is making progress, shows
15 that his level of dangerousness both in a
16 structured environment and non-structured
17 environment is reduced. He's on the right track
18 and he is making progress. Certainly from a
19 psychological perspective we feel that the
20 prisoner is making progress. Dr. Zika is the one
21 that prepared this report. However, we are going
22 to request a new psychological evaluation for the
23 prisoner's next hearing. Under parole plans,
24 certainly the prisoner have parole plans, lots of
25 support in the community, job offers, residential
26 plan. The Hearing Panel notes that in response to
27 **SIEU NGO J-07024 DECISION PAGE 3 8/3/04**

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1 Penal Code 3042 Notices, the Deputy District
2 Attorney from Orange County spoke in opposition.
3 The Panel makes the following findings: The Panel
4 finds that the prisoner needs to continue to
5 participate in the kinds of programs that he's
6 participating in, to continue to make progress,
7 continue to participate to the extent that he will
8 be able to face, understand, and cope with
9 stressful situations in a nondestructive manner.
10 Until the Board feels that enough progress is
11 made, the prisoner continues to be unpredictable
12 thereby presents some amount of threat. However,
13 there are some things that we certainly want to
14 commend him for. The prisoner's disciplinary
15 behavior certainly is not -- is something that we
16 certainly want to give him some accolades for and
17 encourage him to continue in his self-help
18 programs that he's involved in, his educational
19 programs that he's involved in, all of those kinds
20 of things we think is very significant and we want
21 to continue to -- him to continue in that way.
22 However, those positive aspects at this time does
23 not outweigh the factors of unsuitability. Now
24 your parole is going to be denied for one-year
25 this time and we encourage you to continue to
26 remain disciplinary free, continue to explore your
27 SIEU NGO J-07024 DECISION PAGE 4 8/3/04

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1 culpability in the crime, continue to participate
2 in self-help programs and other type of positive
3 kinds of programs, educational programs, as they
4 maybe available to you. There again we want the
5 clinicians to look at your violence potential in
6 the free community when they complete the
7 psychological evaluation, whether there's a
8 significant problem with alcohol and drugs as it
9 relates to the commitment offense into which you
10 have -- and I think this is one area that we
11 certainly want them to take a look at, the extent
12 to which you have explored your commitment offense
13 and come to terms with the underlying causative
14 factors. That concludes the reading of the
15 decision. And personally I think you're making
16 progress, and you asked specifically what it is
17 that you need to do. You need to continue to do
18 the things that you're doing, you need to continue
19 to participate in self-help programs, continue to
20 participate in educational programs, continue to
21 explore the crime that you were committed for and
22 develop greater insight into it. And I think
23 you're on the right track. I think you'll get a
24 parole date in the not too distant future.
25 Commissioner, comments?

26 **DEPUTY COMMISSIONER MEJIA:** Good luck to
27 **SIEU NGO J-07024 DECISION PAGE 5 8/3/04**

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1 you.

2 INMATE NGO: Thank you.

3 DEPUTY COMMISSIONER MEJIA: Keep up the good
4 work.

5 PRESIDING COMMISSIONER WELCH: Good luck to
6 you, Mr. Ngo. That concludes the hearing at
7 approximately 1500 hours.

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23 PAROLE DENIED ONE YEAR

24 THIS DECISION WILL BE FINAL ON: DEC -1 2004.

25 YOU WILL BE PROMPTLY NOTIFIED IF, PRIOR TO THAT
26 DATE, THE DECISION IS MODIFIED.

27 SIEU NGO J-07024 DECISION PAGE 6 8/3/04

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**CERTIFICATE AND
DECLARATION OF TRANSCRIBER**

I, WENDY THOMAS, a duly designated transcriber, CAPITOL ELECTRONIC REPORTING, do hereby declare and certify under penalty of perjury that I have transcribed tape(s) which total one in number and cover a total of pages numbered 1 through 63, and which recording was duly recorded at CORRECTIONAL TRAINING FACILITY at SOLEDAD, CALIFORNIA in the matter of the SUBSEQUENT PAROLE CONSIDERATION HEARING of SIEU NGO, CDC No. J-07024, on AUGUST 3, 2004 and that the foregoing pages constitute a true, complete, and accurate transcription of the aforementioned tape(s) to the best of my ability.

I hereby certify that I am a disinterested party in the above-captioned matter and have no interest in the outcome of the hearing.

Dated August 19, 2004 at Sacramento County, California.

Wendy Thomas
Wendy Thomas
Transcriber
CAPITOL ELECTRONIC REPORTING

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EXHIBIT D

June 23, 2005

Board of Prison Terms
CTF Soledad
P.O. Box 686
Soledad, CA 93960

Re: Sieu Phong Ngo, CDC # J07024
Parole Hearing

Dear Sirs:

I represented Mr. Ngo in the case which sent him to prison. I have been a criminal defense attorney for almost thirty years and have represented over 40 persons accused of homicide. I do not see my clients through rose colored glasses. However, the circumstances of Sieu's case are unusual enough that I feel compelled to make a statement on his behalf.

At the time I represented him, Sieu was a very likeable young man with a minor criminal record. To my recollection he had no convictions for any crimes of violence. The incident in question was very different from the typical "gang case" and the facts are worth sketching for your review.

Sieu and his friends were a "wanna be" type gang who did not really have a significant history or established turf in Orange County. On the day of the incident some of Sieu's friends, by chance, went to the McDonald's which was near Fullerton High School in northern Orange County. Sieu was not present at the time.

One of Sieu's friends got in a staring match with the decedent and some of his friends, who were members of "Tokertown," a long established Hispanic gang in Fullerton.

Essentially, the "Tokertown" group told Sieu's friends that they were not welcome in Fullerton (where some of them already lived) and they should get out of town.

Angered by this, Sieu's friends decided to confront the decedent's group after school got out that day. Sieu was called to help out in case they should be outnumbered. Their group waited after school and confronted the decedent and one of his friends about two blocks south of Fullerton High School (**not on school grounds**).

From all appearances this was intended to be a fist fight. Sieu, and the friend who'd been in the stare-down, approached the decedent and another young man who were walking on a sidewalk. A fist fight is how it started. However, the decedent's friend fled just after the punching began and that left Sieu and his friend fighting the decedent who was significantly larger than either of them. Of course, this was unfair, but nothing at this point suggested that this was intended to be a homicide.

While the fist fight was ongoing a third member of the group Sieu was part of ran forward to the scene. While the fight was in still in progress he reached around Sieu and shot the decedent, killing him and narrowly missing Sieu. Sieu and his group then fled, ultimately being arrested out of state.

Evidence was received to show that Sieu and his friends knew that a gun was in the car. However there was no evidence to show that there was a plan to use it. Based upon the theory of foreseeable consequences, Sieu and several co-defendant's were convicted or pled guilty to murder. **Sieu was not the shooter and no evidence existed to show that he suggested, encouraged or aided or abetted the shooting in any way.**

After the shooting Sieu angrily confronted the shooter, demanding to know "why" he brought out the gun and asserting that he (Sieu) didn't know the gun was going to be used.

In summary, this was not a "drive by" or similar gang crime where everyone knew or legitimately should have known that death or serious bodily injury was intended.

On the contrary, this appeared to be an impulsive act by one member of the group which, due to the rest of the circumstances, swept them all up by way of derivative liability.

I am not suggesting that Sieu and the other non-shooters bear no responsibility for the tragic outcome. But for the fight, of course, no shooting would have taken place. However, I would submit that the circumstances here are significantly mitigated when considered against other convictions of this type.

Assuming that Sieu's performance within the department of corrections has been positive, I would urge his parole at the earliest possible time.

Sincerely,

Donald G. Rubright
Senior Deputy Public Defender
Orange County, Ca
(949) 249-5060

EXHIBIT E

MENTAL HEALTH EVALUATION FOR THE BOARD OF PRISON TERMS
(REVISED AUGUST 1998)
PAROLE CONSIDERATION HEARING
APRIL 2002 LIFER CALENDAR

CORRECTIONAL TRAINING FACILITY, SOLEDAD
JANUARY 23, 2002

This is the second mental health evaluation for the Board of Prison Terms on inmate Sieu Phong Ngo, CDC# J-07024. This report is the product of a personal clinical interview of the inmate, conducted on 01/23/02, as well as a review of his Central file and medical record. This clinical interview and a review of all pertinent documents were for the express purpose of preparing this report. Prior to today's interview, I had no previous contact with this inmate.

PSYCHOSOCIAL ASSESSMENT

I. IDENTIFYING INFORMATION:

Inmate Ngo is a 28-year-old, single, Vietnamese male who was born on 05/18/73. He was born in Vietnam and moved to the United States in 1979 with his family, where they settled in Los Angeles. He has multiple tattoos on his arms, as well as scars from a suicide attempt when he was 16. He denies the use of any nicknames or aliases.

II. DEVELOPMENTAL HISTORY:

Inmate Ngo was born in Vietnam. His family moved to the United States in 1979. They settled in Los Angeles, where they remain to this day. The inmate has one older brother, two older sisters, one younger brother, and one younger sister. They were raised by both parents.

His father died in 1996 while the inmate was incarcerated, but the inmate reports that he is still in contact with his siblings and his mother.

He denies any history of birth defects or abnormalities of developmental milestones, a history of cruelty to

NGO, SIEU PHONG
CDC NUMBER: J-07024
BPT MENTAL HEALTH EVALUATION
PAGE TWO

animals, a history of arson, any significant childhood medical history, or a childhood history of physical or sexual abuse as either a perpetrator or a victim.

III. EDUCATIONAL HISTORY:

Inmate Ngo graduated from high school and attended one year of college, studying general education, prior to his incarceration. In high school, he relates that he was in English as a Second Language classes for some time. Chinese is his primary language, although he speaks very fluent English at this time. He reported that he had some reading problems, probably related to English being his second language at the time.

Since his incarceration, he has been studying vocational, self-paced, business courses. He intends to finish college.

IV. FAMILY HISTORY:

Inmate Ngo speaks of his family in largely positive terms. He states that he is the only one in his family who has a criminal record. There is no family history of mental illness or criminality, other than his. He also denies a family history of alcohol or drug abuse.

V. PSYCHOSEXUAL DEVELOPMENT AND SEXUAL ORIENTATION:

Inmate Ngo states that he is a heterosexual male. He denies any history of high-risk sexual behavior or sexual aggression.

VI. MARITAL HISTORY:

Inmate Ngo has never been married and has no children. He does have a female friend whom he corresponds with, but who does not visit. He did have a girlfriend prior to his incarceration. He reports normal sexual relations.

VII. MILITARY HISTORY:

The inmate denies any history of military service.

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PAGE THREE

VIII. EMPLOYMENT/INCOME HISTORY:

Inmate Ngo was quite young at the time of his commitment offense. However, he had worked at odd jobs in the fast food industry.

Since his incarceration, he has been a clerk. The works chronos in his Central file show that he has been a satisfactory worker in job attendance, quality and quantity. He has learned a couple of job skills, both in cooking and in upholstery, which he intends to continue if granted parole.

IX. SUBSTANCE ABUSE HISTORY:

Inmate Ngo readily acknowledges having tried cocaine once. He reports that the first time he tried it, he was caught and ordered to attend a diversion class for drug addiction. Previous mental health evaluations for the Board of Prison Terms have recommended that he be involved in Alcoholics Anonymous and Narcotics Anonymous. However, the inmate feels that he never really had a drug or alcohol problem, although he does currently attend Alcoholics Anonymous.

X. PSYCHIATRIC AND MEDICAL HISTORY:

Inmate Ngo reports one incident of psychiatric illness, in which he states that when he was 16 years old, he tried to kill himself by cutting his arms. He reports that his family life and personal problems felt overwhelming at the time. He states that he has not suffered from depression or had any suicidal thoughts since that time. He has had no contact with the mental health system since that time, either outside or inside of prison.

He denies any significant medical history, other than mentioned above. He denies a history of serious accidents or head injuries, a history of suicidal behavior, or a history of seizures or other neurological conditions. He is taking no medications.

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 PAGE FOUR

XI. PLANS IF GRANTED RELEASE:

Inmate Ngo states that if he is paroled, he would be fully supported by his family, and would use the money he has earned as a clerk to start his own business, either in the upholstery or restaurant business. He does acknowledge that he is determined not to have any gang affiliation. He shows a good deal of insight into the negative aspects of gang involvement, which he regrets to this day.

CLINICAL ASSESSMENT

XII. CURRENT MENTAL STATUS/TREATMENT NEEDS:

Inmate Ngo appears to be his stated age of 28. He was appropriately dressed and groomed. He was calm, cooperative, coherent and alert during the entire interview. He was open in his conversation and emphasized throughout the interview his recognition that gang affiliation had only resulted in injury to himself and to those around him. His mood was sober, but his range of affect was good. His speech, flow of thought and affect all appeared to be within the normal range. His intellectual functioning was estimated to be within the average range. There was no evidence of a mood or thought disorder. His judgment appeared to be sound. He showed significant insight into his commitment offense, as well as some recognition that there is no guarantee he will be paroled at this time by the Board of Prison Terms.

CURRENT DIAGNOSTIC IMPRESSIONS (DSM-IV):

AXIS I: No Contributory Clinical Disorder.
 AXIS II: Deferred.
 AXIS III: No Contributory Physical Disorder.
 AXIS IV: Long-term incarceration.
 AXIS V: Global Assessment of Functioning (GAF) = 90.

There is no evidence that inmate Ngo currently suffers from any psychiatric illness, although he does recognize that in his early youth he was vulnerable to

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PAGE FIVE

depression and was tempted by consciousness-altering substances. In consideration of the fact that he has received no CDC-115 violations during his entire incarceration, it would appear that he has, at least in this controlled setting, been able to manage his behavior and remain incident-free.

XIII. REVIEW OF LIFE CRIME:

According to inmate Ngo, his offense for which he was convicted and sentenced to 16 years to life was P.C. 187-A, Second Degree Murder, with enhancement P.C. 12022, vicariously armed with a gun.

The inmate stated that he agreed with the version of the crime given in his Central file, the verdict and the sentencing. However, he did state that no one intended to kill the victim, and that their intent was only to beat him up. He had past prior offenses, which included a two-year drug diversion, as referred to earlier in this report. He has had one previous BPT evaluation.

XIV. ASSESSMENT OF DANGEROUSNESS:

- A. Inmate Ngo's report agrees in all details with the information given in the Central file and medical record with respect to his prior history as a person who attempted to use cocaine and was affiliated with gangs, which resulted in his current offense. Based upon his complete lack of disciplinary actions while incarcerated, his insight into the negative aspects of gang involvement, and his remorse for his actions, his violence potential within a controlled setting is estimated to be below average relative to this Level II inmate population.
- B. If released to the community, his violence potential is estimated to be less than the average citizen in the community, given his insight, his demonstrated ability to stay out of trouble, his successful development of plans upon release, and the support of his family.

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- C. Clearly, the most significant risk factor for this inmate as a precursor to violence or a return to criminal behavior would be his reinvolverment with others having a criminal history and/or gang members, the abuse of alcohol and/or drugs, and isolation from his family members.

XV. CLINICIAN OBSERVATIONS/COMMENTS/RECOMMENDATIONS:

- A. This inmate is competent and responsible for his behavior. He has the capacity to abide by institutional standards and has done so during his entire incarceration period.
- B. This inmate does not have a mental health disorder which would necessitate treatment either during his incarceration period or following parole.
- C. As this man has spent ten years in prison, I would recommend, should he be paroled:
- 1) Abstinence from all alcohol and/or use of any controlled substance.
 - 2) Frequent monitoring for substance abuse.
 - 3) If at all possible, he should be relocated so he is near his family.
 - 4) He should make frequent reports to his parole officer concerning his vocational progress and goals. The structure of the institution has, inevitably, to some extent, served to diminish his own self-reliance, and the process of reporting in and setting validating goals might be helpful in assisting him in establishing, perhaps for the first time in his life, a real sense of self-reliance and a positive prosocial sentence.
 - 5) Due to his family's commitment to supporting him upon his release, his projected level of

NGO, SIEU PHONG
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success in the community, if granted a date for
parole, is seen at this time to be better than
average.

C. SAINDON, Ph.D.
Staff Psychologist
CORRECTIONAL TRAINING FACILITY, SOLEDAD



BILL ZIKA, Ph.D.
Senior Supervising Staff Psychologist
CORRECTIONAL TRAINING FACILITY, SOLEDAD



CS/gmj

D: 01/23/02
T: 01/31/02

EXHIBIT F

Leguzman
CFBW 3194

LIFE PRISONER EVALUATION REPORT
SUBSEQUENT PAROLE CONSIDERATION HEARING
AUGUST 2005 CALENDAR

NGO, SIEU

J-07024

INMATE COPY

I. COMMITMENT FACTORS:

A. Life Crime: PC 187, Murder 2nd with PC 12022(A)(1), Use of Weapon in commission of a felony. Orange County Superior Court Case #C99109. Term: 15 years to Life plus 1 year enhancement. MEPD: 5/24/03. Victim: Angel Ganzales, 15 years old. Inmate Ngo was received in the California Department of Corrections on 2/1/94.

1. Summary of Crime: All relevant documents from the previous hearing including the transcripts have been considered and that information appears valid. The writer has no further information to add.
2. Prisoner's Version: Remains the same as stated in the previous hearing.
3. Aggravating/Mitigating Circumstances:
 - a. Aggravating Factors: Remains the same as stated in the previous hearing.
 - b. Mitigating Factors: Remains the same as stated in the previous hearing.

B. Multiple Crime(s): N/A.

1. Summary of Crime: N/A.
2. Prisoner's Version: N/A.

II. PRECONVICTION FACTORS:

- A. Juvenile Record: Documents from the previous hearing have been considered and that information remains valid.
- B. Adult Convictions and Arrests: Documents from the previous hearing have been considered and that information remains valid.

COPY TO INMATE ON
June 22, 2005

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LIFE PRISONER EVALUATION REPORT
 PAROLE CONSIDERATION HEARING
 AUGUST 2005 CALENDAR

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- C. Personal Factors: Documents from the previous hearing have been considered and that information remains valid.

III. POSTCONVICTION FACTORS:

- A. Special Programming/Accommodations: None.
- B. Custody History: Documents from the previous hearing(s) have been considered and that information remains valid. Since his last Board of Prison Terms (BPT) hearing on 8/5/04, in which his parole was denied for one (1), inmate Ngo has remained at the Correctional Training Facility (CTF), in the General Population (GP). He has retained his custody at Medium A with a Preliminary/behavior classification score of 0 and a Mandatory Minimum Placement score of 19 (the change is due to the revised classification scoring system effective 10/15/02).
- C. Therapy and Self-Help Activities: Refer to the Postconviction Progress Report for details.
- D. Disciplinary History: Refer to the Disciplinary Sheet for details.
- E. Other:

IV. FUTURE PLANS:

- A. Residence: Inmate Ngo plans to live with his mother, Huynh Phong Ngo at 709 Triana Street, Monterey Park, California, 91754 with telephone number 626-282-3156. In addition, most, if not all of his relatives has offered housing, employment, financial, moral and social assistance to inmate Ngo, if and when he is released to parole.
- B. Employment: Inmate Ngo is in receipt of two (2) Certificates of Completion, Vocational Automotive Refinishing (9/12/97) and Upholstery (2/27/97), both employable trades. Inmate Ngo has been a Culinary Storekeeper Office Aide over two (2) years, another employable trade. His relatives are offering immediate employment opportunities in their liquor and restaurant business, if and when he is released to parole.
- C. Assessment: Inmate Ngo does not have any prior record of criminal conduct (considering the recency and frequency of prior crimes) and the circumstances of the instant offense, ~~he~~ he does not appear to be criminally minded and has a good insight into himself. He has been able to maintain himself relatively disciplinary free (of serious rules violation report) since 2/12/00. In 9/12/97 and 2/27/97, he

LIFE PRISONER EVALUATION REPORT
PAROLE CONSIDERATION HEARING
AUGUST 2005 CALENDAR

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acquired two (2) Certificates of Completion, Vocational Automotive Refinishing and Upholstery, respectively. In addition, he is in the process of acquiring college credits via correspondence from Coastline Community College with the hope that said credits will be transferable to a university and eventually obtain a degree in Biology. Finally, he has achievable and realistic parole plans.

V. USINS STATUS: Inmate Ngo was born on 5/18/73 in Vietnam, immigrated to the United States of America (USA) and later became a naturalized citizen of the USA.

VI. SUMMARY:

- A. Prior to release the prisoner could benefit from:
- (1) Participate in self-help programs;
 - (2) Remain disciplinary free;
 - (3) Earn positive chronos;
- B. This report is based upon 3 hours of Central File research, an interview with inmate Ngo and incidental contact with the prisoner during this period of review.
- C. Inmate Ngo reviewed his Central File pursuant to in re: Olson on 5/31/05.
- D. No accommodation was required per the Armstrong vs. Davis BPT Parole Proceedings Remedial Plan (ARP) for effective communication.

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BOARD OF PRISON TERMS

STATE OF CALIFORNIA

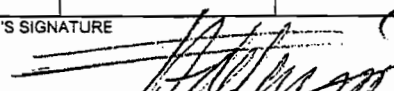
LIFE PRISONER: POSTCONVICTION PROGRESS REPORT

- ☐ DOCUMENTATION HEARING
- ☒ PAROLE CONSIDERATION HEARING
- ☐ PROGRESS HEARING

INSTRUCTIONS

TO CDC STAFF: DOCUMENT EACH 12-MONTH PERIOD FROM THE DATE THE LIFE TERM STARTS TO PRESENT

TO BPT STAFF: FOR EACH 12-MONTH INCREMENT APPLY THE GUIDELINES UNDER WHICH THE PAROLE DATE WAS ORIGINALLY ESTABLISHED, i.e., 0-2 MONTHS FOR PBR AND 0-4 MONTHS FOR BPT. SEE BPT §§2290 - 2292, 2410 AND 2439.

POSTCONVICTION CREDIT			REASONS
YEAR	BPT	PBR	
4/24/04 to 6/8/05 (Present)			<p>PLACEMENT: Remains housed at CTF, in the GP.</p> <p>CUSTODY: Remains at Medium A.</p> <p>ACADEMIC: Graduated from Fullerton High School, Orange County in 1992. Additionally, inmate Ngo has been and is currently enrolled in an Independent Study Program through Coastline Community College (semester ending May, 2005).</p> <p>WORK: Remains assigned as a Culinary Storekeeper Office Aide receiving satisfactory grades per the Work Supervisor's Report (CDC101).</p> <p>VOCATION: Inmate Ngo is in receipt of two (2) Certificates of Completion, Vocational Automotive Refinishing (9/12/97) and Upholstery (2/27/97). Additionally, he is in the Vocational Data Processing waiting list.</p> <p>GROUP ACTIVITIES: None noted this period.</p> <p>PSYCH TREATMENT: None noted this period.</p> <p>PRISON BEHAVIOR: Disciplinary free of serious rules violation reports since 2/12/00.</p> <p>OTHER: Inmate Ngo continues to better himself year after year.</p>
CORRECTIONAL COUNSELOR'S SIGNATURE			DATE
M. DeGUZMAN 			6/8/05

NGO, SIEU PHONG

J07024

CTF

AUG/2005

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DISCIPLINARY SHEET

CDC 128A'S:

02/11/00	CTF	Window covering
04/01/97	LAC	Failed to respond to duca

CDC 115's:

None

NGO, SIEU

J07024

CTF

AUG/2005

EXHIBIT G

LIFE PRISONER EVALUATION REPORT
SUBSEQUENT PAROLE CONSIDERATION HEARING
MAY 2004 CALENDAR

NGO, SIEU PHONG

J-07024

I. COMMITMENT FACTORS:

A. Life Crime: Murder second, PC 187, with use of a firearm PC 12022(A) (1). San Francisco County case #c99109, sentence: 15 years to life plus one year enhancement. MEPD: 5-24-03. Victim: Angel Gonzalez, age 15 years old. Received by CDC on 2-1-94.

1. Summary of Crime: All relevant documents from the previous hearings including the transcripts have been considered and that information appears valid and the writer has no further information to add.

2. Prisoner's Version: Remains the same as stated in the previous hearing.

3. Aggravating/Mitigating Circumstances:

a. Aggravating Factors: Remains the same as stated in the previous hearing.

b. Mitigating Factors: Remains the same as stated in the previous hearing.

B. Multiple Crime(s): None.

1. Summary of Crime: None.

2. Prisoner's Version: None.

II. PRECONVICTION FACTORS:

A. Juvenile Record: Remains the same.

B. Adult Convictions and Arrests: Remains the same.

C. Personal Factors: Remains the same.

LIFE PRISONER EVALUATION REPORT
SUBSEQUENT PAROLE CONSIDERATION HEARING
MAY 2004 CALENDAR

2

III. POSTCONVICTION FACTORS:

- A. Special Programming /Accommodations: None.
- B. Custody History: Documents from the previous hearing have been considered and that information remains valid. During the period of time since the last hearing (5-13-02), Ngo's behavior has been positive, in that he has remained disciplinary free and maintained a stable work program in his assignment as a culinary warehouse worker.
- C. Therapy and Self-Help Activities: Ngo is involved in an Independent Study Program through Coastline Community College. He participates in the Narcotics Anonymous Program. He completed the 13 week IMPACT workshop.
- D. Disciplinary History: Ngo received only two CDC 128A's. See Disciplinary Sheet for details.
- E. Other: An Initial Parole Consideration Hearing was held on 5-13-02. The BPT recommended:
 - 1. Remain disciplinary free.
 - 2. Upgrade education.
 - 3. Continue to participate in self-help and therapy.The BPT denied parole for an additional two years.

IV. FUTURE PLANS:

- A. Residence: Ngo plans to reside with his mother, Phuong Hungk Ngo, at 709 Triana Street, Monterey Park, California, (714)827-7832.
- B. Employment: Ngo plans to work at the family liquor store which is owned by his sister, Julie Seeto, in Anaheim. His uncle, Calvin Ung owns a restaurant in Anaheim and has offered Ngo a job as a cook.
- C. Assessment: Ngo's chances of a successful parole are very good. He has concrete parole plans and letters of support from his family.

V. USINS STATUS: No holds.

VI. SUMMARY:

LIFE PRISONER EVALUATION REPORT
SUBSEQUENT PAROLE CONSIDERATION HEARING
MAY 2004 CALENDAR

3

- A. Considering the commitment offense, minimal prior arrest record and good prison adjustment, the writer believes Ngo would probably pose a low degree of threat to the public at this time, if release from prison. This opinion is based on Ngo being immature at the time of the crime and easily influenced by his peers. The crime was episodic in nature. Ngo has a limited criminal history and has not shown a pattern of violence in custody.
- B. Prior to release, Ngo could benefit from remaining disciplinary free and upgrading his education.
- C. This board report is based upon a one hour interview, incidental contact in the housing unit and a through review of the Central File lasting on hour.
- D. Ngo declined the opportunity to review the Central File on 1-20-04 (see CDC 128B Chrono).
- E. No accommodation was required per the Armstrong vs. Davis BPT Parole Proceeding Remedial Plan for effective communication.

DISCIPLINARY SHEET

CDC 128A's:

2-11-00	CTF	Window covering.
4-1-97	LAC	Failed to respond to medical ducat.

CDC 115's:

None.

LIFE PRISONER EVALUATION REPORT
SUBSEQUENT PAROLE CONSIDERATION HEARING
MAY 2004 CALENDAR

4

M. Rubio 4-23-04
M. Rubio Date
Correctional Counselor I

L.R. Baker, CCH (A) 4-23-04
L.R. Baker Date
Correctional Counselor II

J.L. Clancy 4-27-04
J.L. Clancy Date
Facility Captain

4) D. S. Levorse 4-28-04
D. S. Levorse Date
Classification and Parole Representative

RD OF PRISON TERMS

STATE OF CALIFORNIA

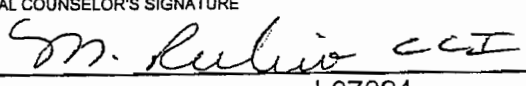
LIFE PRISONER: POSTCONVICTION PROGRESS REPORT

- ☐ DOCUMENTATION HEARING
- ☒ PAROLE CONSIDERATION HEARING
- ☐ PROGRESS HEARING

INSTRUCTIONS

TO CDC STAFF: DOCUMENT EACH 12-MONTH PERIOD FROM THE DATE THE LIFE TERM STARTS TO PRESENT

TO BPT STAFF: FOR EACH 12-MONTH INCREMENT APPLY THE GUIDELINES UNDER WHICH THE PAROLE DATE WAS ORIGINALLY ESTABLISHED, ie., 0-2 MONTHS FOR PBR AND 0-4 MONTHS FOR BPT. SEE BPT §§2290 - 2292, 2410 AND 2439.

POSTCONVICTION CREDIT			REASONS
YEAR	BPT	PBR	
5/02 TO 4/2003			PLACEMENT: CTF. CUSTODY: MED A. VOC. TRAINING: None. ACADEMICS: Enrolled in an Independent Study Program. WORK RECORD: Assigned to the culinary warehouse. GROUP ACTIVITIES: Completed the IMPACT workshop attended Narcotics Anonymous meetings. PSYCH. TREATMENT: None. PRISON BEHAVIOR: No disciplinaries. OTHER: None.
CORRECTIONAL COUNSELOR'S SIGNATURE			DATE
			4-23-04
Ngo, Sieu		J-07024	CTF-SOLEDAD May/2004

BOARD OF PRISON TERMS

STATE OF CALIFORNIA

CONTINUATION SHEET: LIFE PRISONER: POSTCONVICTION PROGRESS REPORT

POSTCONVICTION CREDIT			REASONS
YEAR	BPT	PBR	
5/2003 To Present			PLACEMENT: CTF. CUSTODY: MED A. VOC. TRAINING: None. ACADEMICS: Enrolled in an Independent Study Program. WORK RECORD: Assigned to the culinary warehouse. GROUP ACTIVITIES: Participated in Narcotics Anonymous meetings. PSYCH. TREATMENT: None. PRISON BEHAVIOR: No disciplinarys. OTHER: None.

ORDER:

- | | | | | |
|--------------------------|----------------------|---------|--------------------------|-----------------------------------|
| <input type="checkbox"/> | BPT date advanced by | months. | <input type="checkbox"/> | BPT date affirmed without change. |
| <input type="checkbox"/> | PBR date advanced by | months. | <input type="checkbox"/> | PBR date affirmed without change. |

SPECIAL CONDITIONS OF PAROLE:

- ☐ Previously imposed conditions affirmed.
☐ Add or modify

- ☐ Schedule for Progress Hearing on appropriate institutional calendar

Go, Sieu

J-07024

CTF-SOLEDAD

May/2004

BOARD OF PRISON TERMS

STATE OF CALIFORNIA

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EXHIBIT H

THE PRISONER EVALUATION REPORT
INITIAL PAROLE CONSIDERATION HEARING
APRIL 2002 CALENDAR

NGO, SIEU PHONG

J07024

I. COMMITMENT FACTORS:

A. Life Crime: Murder Second, PC 187, with Use of a Firearm, PC 12022(A)(1). San Francisco County Case #C99109. Sentence: 15 years to Life plus one year enhancement. MEPD: 5/24/03. Victim: Angel Gonzalez, age 15 years old. Received by CDC on 2/1/94.

1. Summary of Crime: On 9/18/92, Angel Gonzalez was beaten and shot to death near Fullerton High School as he was walking home after school. An investigation revealed that earlier in the day the victim, a member of the "Fullerton Tokers Town" a Latin gang and member of "Fullerton Boyz" an Asian gang, were at a McDonald's restaurant, near the high school. The victim and No Muhamed had a confrontation with each claiming their respective gang affiliations. After this non-physical altercation, the group of Asians which at the time included Sieu Phong Ngo, obtained a firearm. Ngo and the Asian gang members returned to the school where they waited for Gonzalez. As he walked home he was attacked and beaten. During the physical altercation the victim was shot one time in the back by Usumang Muhamed. The group of five Asian gang members including Ngo fled the area after the shooting. Angel Gonzalez died at the scene as a result of the gunshot wound. Ngo, Jimmy Dao and Asat Cham fled to the state of Washington. They were subsequently apprehended there, and the murder weapon, a stolen .22 caliber handgun was recovered in the vehicle. Information obtained from POR pages 3 & 4.
2. Prisoner's Version: Ngo explained that earlier in the day his group had a confrontation with the victim. Subsequently, he and his group went to an arcade to play games. At that time his companions took possession of a weapon. Ngo stated that he did not see the gun until he was in the vehicle, it was located under the passenger's seat. He and his companions returned to Fullerton High School where they parked and went to look for Gonzalez. Ngo explained that they had gun for protection in case someone else happened to have a weapon. They found Gonzalez, and he and his group started fighting with the victim. During the fight Ngo heard two shots. Ngo explained that no one intended to kill the victim. They just planned to beat him up because Gonzalez had told them to "get out of town," and this made Muhamed angry. Ngo realizes that his behavior was a mistake. Ngo drove his two companions to Washington because

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LIFE PRISONER EVALUATION REPORT
 INITIAL PAROLE CONSIDERATION HEARING
 APRIL 2002 CALENDAR

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Muhammed told him that he knew someone who would give them shelter.
 Ngo feels sorry for the victim's family.

B. Aggravating/Mitigating Circumstances:

1. Aggravating Factors:

- a. The victim was particularly vulnerable in that he was outnumbered.
- b. The crime was racially motivated.
- c. The inmate had an opportunity to cease but continued with the crime.
- d. The crime involved use of a firearm.

2. Mitigating Factors: The inmate has a minimal history of criminal behavior.

II. PRECONVICTION FACTORS:

A. Juvenile Record: None.

B. Adult Convictions: On 3/30/92, Ngo was arrested by the San Gabriel Police Department for Possession of a Controlled Substance (three pieces of rock cocaine). On 5/7/92 he was diverted pursuant to Section 1000 of the Penal Code. On 9/22/92, Ngo was arrested by the Olympia Sheriff's Office for Possession of Stolen Property. This case was Subsequently dismissed. Information obtained from CI&I.

C. Personal Factors: Ngo was born in Vietnam on 5/18/73. He has resided in the United States since 1979. In 1991 he graduated from Fullerton High School and subsequently attended Fullerton Community College and Pasadena City College. He completed ten units and his major was business. Ngo was employed as a telemarketer and worked odd jobs. He was employed at his family's liquor store and resided with his parents. Ngo had problems with controlled substances or alcohol. He was a member of the "Fullerton Boyz," and after his move to Los Angeles he became affiliated with the "Tiger Mafia."

III. POSTCONVICTION FACTORS:

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LIFE PRISONER EVALUATION REPORT
INITIAL PAROLE CONSIDERATION HEARING
APRIL 2002 CALENDAR

3

- A. Special Accommodations/Disability: None.
- B. Custody History: Ngo was received by R.J. Donovan Correctional Facility for Initial Processing on 2/1/84. He was transferred to Centinela State Prison on 3/17/94 and placed on Close A Custody. On 5/16/95 he was transferred to California State Prison at Lancaster and placed on Medium A Custody. On 12/16/98 he was transferred to the Correctional Training Facility and continued Medium A Custody. Ngo has been assigned to the Yard Crew and various positions as a clerk. He has completed courses in Tuberculosis, AIDS and Hepatitis. Ngo successfully completed Vocational Auto Upholstery, Automotive Refinishing and Vocational Auto Paint.
- C. Work, Education, Vocation, Therapy & Self-Help Activities: Ngo has completed self-help courses in Salesmanship and Parenting and has been a participating member of Alcoholics Anonymous and Narcotics Anonymous.
- D. Disciplinary History: Ngo has received only two CDC 128A's during his incarceration. See Disciplinary Sheet for details.

IV. FUTURE PLANS:

- A. Residence: Ngo plans to reside with his mother, Phuong Hungk Ngo, at 709 Triana Street, Monterey Park, California, (714) 827-7832.
- B. Employment: Ngo plans to work at the family liquor store which is owned by his sister, Julie Seeto, in Anaheim. His uncle, Calvin Ung, owns a restaurant in Anaheim and has offered Ngo a job as a cook.

V. USINS STATUS: Ngo is a United States Citizen.

VI. SUMMARY:

- A. Considering the commitment offense, minimal prior arrest record and prison adjustment, the writer believes Ngo would probably pose a moderate to low degree of threat to the public at this time, if released from prison. This opinion is based on Ngo being immature at the time of the crime and easily influenced by his peers. The crime was episodic in nature. Ngo has a limited criminal history and has not shown a pattern of violence in custody.
- B. Prior to release Ngo could benefit from remaining disciplinary free and completing an additional vocational program.

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LIFE PRISONER EVALUATION REPORT
INITIAL PAROLE CONSIDERATION HEARING
APRIL 2002 CALENDAR


4

- C. This report is based upon a one hour interview, incidental contact in the housing unit and a thorough review of the Central File.
- D. Ngo reviewed his Central File on 1/18/02.

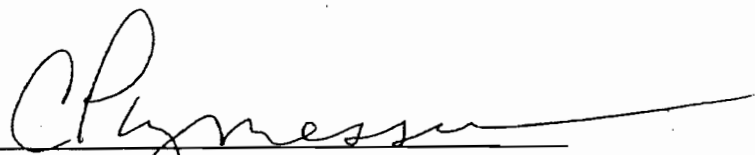
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LIFE PRISONER EVALUATION REPORT
INITIAL PAROLE CONSIDERATION HEARING
APRIL 2002 CALENDAR

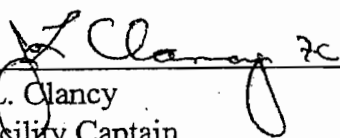
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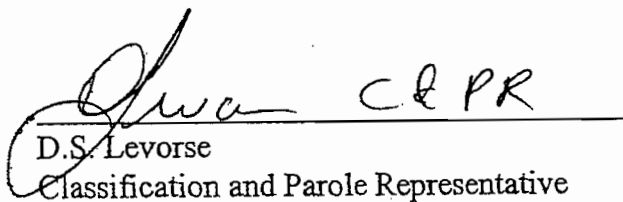
M. Rubio
Correctional Counselor I



C. Plymesser
Correctional Counselor II



J.L. Clancy
Facility Captain



D.S. Levorse
Classification and Parole Representative

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EXHIBIT I

COPY TO I/M
VIA

PSYCHOLOGICAL EVALUATION FOR
THE BOARD OF PRISON TERMS
MARCH 1997 CALENDAR

CC-1 ON

1-8-97'
(date)

CALIFORNIA STATE PRISON-LOS ANGELES COUNTY

NAME: NGO, SIEU

CDC#: J-07024

DATE OF EVALUATION: December 27, 1996

IDENTIFICATION/FORENSIC DATA:

This is the psychological report for the "Documentation #1 Hearing" scheduled for March of 1997 for Sieu Ngo; CDC# J-07024. On October 21, 1993; Mr. Ngo was convicted by jury trial of P.C. 187A murder in the second degree, reduced from first degree in exchange for agreeing to a 15-to-life sentence and no appeal, with enhancement P.C. 12022 vicariously armed with a gun. He was sentenced to 16-years-to-life. The crime occurred September 18, 1992. Mr. Ngo and four co-defendants beat and shot in the back a fifteen year old member of an enemy gang. Mr. Ngo stated that he agreed with the records of the crime, the verdict, and the sentencing. However, he did state at the time of the trial that no one intended to kill the victim only to beat him up.

Past prior offenses include a two year drug diversion, for possession of Cocaine and several other arrests which did not result in convictions. There have been no prior psychological Board of Prison Terms reports.

BACKGROUND INFORMATION:

The evaluation consisted of a single 45-minute interview, for the purposes of this report. This was after review of the Central File and medical records on 12/27/96. There are no records of past psychological/psychiatric treatment.

Mr. Ngo has received no disciplinary actions. Not a single 115 or 128A. Mr. Ngo completed two years of college prior to coming to prison. During incarceration, his vocational training in auto upholstery earned him good comments from his instructors such as, "doing well - shows enthusiasm". He received several certificates of completion. The last one in October of 1996. Mr. Ngo has attended Narcotic's

PSYCHOLOGICAL EVALUATION FOR
THE BOARD OF PRISON TERMS
MARCH 1997 CALENDAR
DATE OF EVALUATION: December 27, 1996
PAGE 2

Anonymous and received a one year perfect attendance certificate in November of 1996. He has not been employed in prison. Prior to incarceration, he was employed in sells, telemarketing, and as a cook while a student in junior college.

The historical information supplied by the inmate agreed with the records and there were no distortions.

PRESENT CONDITION:

His Central File contains no records of past mental illness; however, the inmate reported a history of depression, with three suicide attempts during his adolescence. He has records of hospitalization for the suicide attempts and his family will be obtaining these records for entry in his Central File. He has numerous cuts and slices on his arm from suicide attempts. Mr. Ngo describes his level of insight at the time of the crime as very limited, naive, showing poor judgment in his friends and activities. He had decided to disengage from these friends and moved away one year prior to the crime, which occurred while he was visiting. Now, he reports he is able to think before acting; he has changed his attitude to one of valuing service to his fellow man such as mentoring and tutoring. The remorse he expresses is sincere. He shows much shame and self-incrimination for the crime. In hindsight, he sees that he perhaps could have stopped the incident and now has great empathy and remorse for the family of the victim.

MENTAL STATUS AND DIAGNOSIS:

Mental status indicators are clear in all areas: mood and affect, behavior, speech, thought content and processes, and cognition.

AXIS I: V71.09 NO DIAGNOSIS OR CONDITION.

AXIS II: V71.09 NO DIAGNOSIS.

AXIS III: NONE.

PSYCHOLOGICAL EVALUATION FOR

THE BOARD OF PRISON TERMS

MARCH 1997 CALENDAR

DATE OF EVALUATION: December 27, 1996

PAGE 3

AXIS IV: PSYCHOSOCIAL STRESSORS: INCARCERATION.

AXIS V: GLOBAL ASSESSMENT OF FUNCTIONING = 75.

CONCLUSIONS AND RECOMMENDATIONS:

Mr. Ngo's history of depression and suicide attempts may have contributed to his state of mind and poor judgment during the time of the crime. There are no records of any mental health treatment during incarceration and Mr. Ngo is no longer depressed. He has increased his chances for successful re-entry into society by setting educational goals in academic subjects and a good start in attendance in Narcotic's Anonymous. He plans to start Alcoholic's Anonymous in 1997. He also has excellent family support who can provide him a place to live, employment, and are willing to pay for correspondence courses for him during incarceration. This inmate is of above average intelligence and has excellent potential in intellectual endeavors. He is no longer depressed and is now able to recognize the symptoms of depression and would seek help as needed. Also in his favor is the absence of any indications of violence other than the crime.

To continue positive programming, Mr. Ngo needs to regularly attend Narcotic's Anonymous and Alcoholic's Anonymous, remain disciplinary-free, and pursue higher education through correspondence courses. By reducing his points, he can possibly transfer to other institutions that facilitate correspondence studies and provide other self-help group opportunities. Psychotherapy is not part of his program unless he has a recurrence of his depression.

C. Schroeder Ph.D.
C. SCHROEDER, Ph.D.
Staff Psychologist

1/6/97
Date

Orig: C-File
cc: Medical Records Psych. Inmate

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EXHIBIT J

MINUTE ORDER

Case Number M-10984 X A

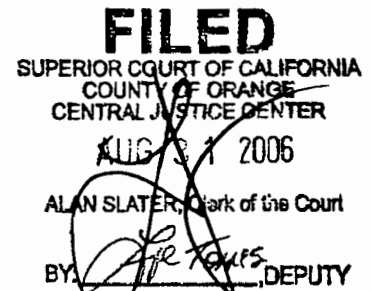
People Vs Ngo, Sieu

Report Request Criteria

1. Docket Date Range : Date filter
2. Sequence Number Range : Sequence filter
3. Docket Category : Category filter

<u>Docket Dt</u>	<u>Seq</u>	<u>Text</u>
8/31/2006	1	Hearing held on 08/31/2006 at 09:00 AM in Department C5 for Chambers Work.
	2	Officiating Judge: Kazuharu Makino, Judge
	3	Clerk: L. Torres
	4	No Court Reporter present at proceedings.
	5	No appearances.
	6	Order denying Writ of Habeas Corpus filed.
	7	Petition for Writ of Habeas Corpus is denied for the reasons stated in the order denying writ filed 08/18/2006.
	8	As ordered, the clerk this date has mailed a copy of this minute order to the Petitioner at MARILEE MARSHALL & ASSOCIATES 523 WEST SIXTH STREET SUITE 1109 LOS ANGELES, CA. 90014
	9	The clerk this date has forwarded a copy of this minute order to Orange County District Attorney's Office.

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE**

In re

CASE NO. **M-10984**

SIEU NGO,

Petitioner,

ORDER

ON HABEAS CORPUS.

TO THE PETITIONER AND THE OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF CALIFORNIA, HAVING RECEIVED THE PETITION FOR WRIT OF HABEAS CORPUS, THE COURT FINDS AND ORDERS AS FOLLOWS:

1

In 1993, Petitioner was a gang member who, along with four other members of his gang, attacked a 15-year-old rival gang member. The victim was beaten, kicked and finally shot and killed. Petitioner was not the shooter. In 1994, Petitioner entered a plea to second degree murder and was sentenced to 16 years to life. He became eligible for parole in 2003. He had a subsequent parole hearing in February 2006.

At the February 2006 hearing, the Board of Parole Hearings (hereafter individually and collectively referred to as "the BPH") found Petitioner would pose an unreasonable risk of danger to society or a threat to public safety at this time if he were released. In announcing its decision, the BPH stated the crime was carried out in an especially cruel and callous manner in that the 15-year-old victim was attacked and beaten and ultimately shot in the back and died at the scene. The offense displayed a disregard for public safety in that it occurred near a school. During the hearing, Petitioner stated that he thought he was going to a fist fight; he saw the gun under a car seat, but he did not intend that the victim would be killed and did not realize anyone else had that intent. The BPH concluded that Petitioner's statement minimized the gravity of the

crime as well as his involvement, and demonstrated a lack of insight. Based on that, the BPH stated it was "hard . . . to get a gauge on what risk [Petitioner] would pose to public safety when [it cannot] feel comfortable about the level of insight [Petitioner] displayed."

The BPH acknowledged that Petitioner was a model prisoner. He had no record of misconduct in prison and only two minor rule violations, one being for window coverings. Petitioner had participated in multiple self-help programs, had made substantial progress toward a college degree, had outstanding parole plans, and a psychological report supported his release. The psychologist had concluded Petitioner's violence potential was less than the average citizen in the community. Nevertheless, the BPH determined it would not grant parole. Based on Petitioner's statement that he thought he was going to a fist fight, the BPH believed Petitioner was minimizing the gravity of the crime as well as his involvement, and demonstrating a lack of insight. Based on Petitioner's lack of insight, the BPH concluded it was "hard . . . to get a gauge on what risk" Petitioner would pose to public safety. Parole was denied for two years.

II

Petitioner argues there was no evidence to support the BPH decision that he posed an unreasonable risk of danger to society if released from prison. Petitioner acknowledges that the requirements of due process are satisfied if "some evidence" supports the decision. (*In re Rosenkrantz* (2002) 29 Cal.4th 616, 626.) He contends, however, that the factors set forth in California Code of Regulations, title 15, section 2402 all indicate his suitability for parole. He points out that the psychological evaluation was extremely supportive of release and the evaluator concluded Petitioner's violence potential was less than the average citizen in the community. Further, the crime occurred when he was 19. He is now 33. He has a flawless prison record, has participated in numerous self-help programs and has upgraded educationally. He also argues, citing Penal Code section 3041, subdivision (b), that a life prisoner must be paroled when his release would not pose a danger to the public.

Petitioner further contends that denial of parole based solely on the unchanging facts of his commitment offense violated the constitutional prohibition against cruel and unusual punishment. Even assuming the BPH characterization of the offense was accurate, he argues, the crime alone cannot support a finding he currently poses a risk to society.

III

The petition is denied on the following grounds:

The California Supreme Court in *In re Dannenberg* (2005) 52 Cal.4th 1061 held that the BPH “may protect public safety” by “considering the dangerous implications” of the commitment offense. (*Id.* at p. 1071.) This applies to crimes such as Petitioner’s. (Pen. Code, § 3041; *In re Dannenberg, supra*, at pp. 1082-1084.) Thus, while the BPH must point to factors “beyond the minimum elements of the crime . . . it need engage in no further comparative analysis before concluding that the particular facts of the offense make it unsafe, at that time, to fix a date for the prisoner’s release.” (*In re Dannenberg, supra*, at p. 1071.) Here, the BPH pointed over and over to the gang-related nature of the offense. Petitioner was not the shooter; nevertheless the death of the young victim resulted from gang rivalry, a factor beyond the minimum elements of second degree murder. (Compare *In re Shaputis* (2005) 135 Cal.App.4th 217 [no evidence of conduct beyond the minimum required for conviction of second degree murder where wife-victim died from a single gunshot wound fired at close range after marital argument and the petitioner immediately called police and turned himself in].) The BPH was therefore not required to consider the factors set forth in California Code of Regulations, title 15, section 2402. (*In re Dannenberg, supra*, at p. 1071.)

Moreover, the BPH “shall set a release date *unless* it determines that the gravity of the current convicted offense . . . is such that consideration of the public safety requires a more lengthy period of incarceration for this individual, and that a parole date, therefore, cannot be fixed at this meeting.” (Pen. Code, § 3041, subd. (b), emphasis added.) The BPH focused on Petitioner’s statement he thought he was going to a fist fight and concluded he was minimizing the gravity of the crime and his involvement and demonstrating a lack of insight. It determined public safety considerations required more incarceration and denied parole on that basis. The denial was therefore authorized by Penal Code section 3041, subdivision (b). (*In re Dannenberg, supra*, at p. 1071.) The petition is denied on that basis. (*Ibid.*)

IV

The petition for a writ of habeas corpus is DENIED.

DATED: 0-31-06

K. Mahan
JUDGE OF THE SUPERIOR COURT

DECLARATION OF SERVICE BY MAIL

I, the undersigned, declare:

I am over eighteen (18) years of age, and not a party to the within cause; my business address is 523 West Sixth Street, Suite 1109, Los Angeles, CA. 90014. That on October 17, 2006, I served a copy of the within:

**EXHIBITS IN SUPPORT OF
PETITION FOR WRIT OF HABEAS CORPUS**

On the interested parties by placing them in an envelope (or envelopes) addressed respectively as follows:

Office of the Attorney General
P.O. Box 85266
San Diego, CA 92186-5266

Office of the District Attorney
700 Civic Center Drive West
Santa Ana, CA 92701

Clerk of the Superior Court
700 Civic Center Drive West
Santa Ana, CA 92702-1944
For delivery to the Honorable Kazuharu
Makino

Mr. Sieu Phong Ngo
J-07024/ B-wing 319-up
CTF- Soledad
P.O. Box 689
Soledad, CA 93960-0689

Each said envelope was then, on October 17, 2006, sealed and deposited in the United States mail at Los Angeles, California, the county in which I maintain my office, with postage fully prepaid.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 17, 2006, at Los Angeles, California.


SHANNON CALLAHAN

EXHIBIT K

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

COURT OF APPEAL-4TH DIST DIV 3
FILED

NOV 09 2006

Deputy Clerk

In re SIEU NGO

on Habeas Corpus.

G037732

(Super. Ct. No. M10984)

ORDER

THE COURT:*

The petition for a writ of habeas corpus is DENIED.

O'LEARY, J.

O'LEARY, ACTING P. J.

* Before O'Leary, Acting P. J., Aronson, J., and Ikola, J.

COPY

EXHIBIT L

S148684

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re SIEU NGO on Habeas Corpus

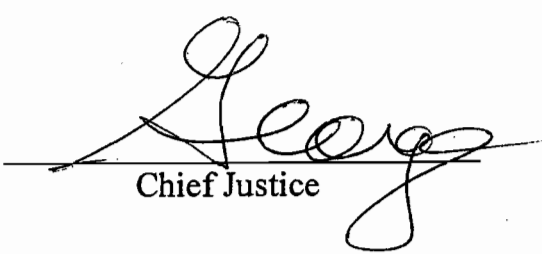
The petition for writ of habeas corpus is denied.

**SUPREME COURT
FILED**

MAY 23 2007

Frederick K. Shlrich Clerk

DEPUTY



Chief Justice

